

opera houses, theatres, theatrical enterprises and booking percentages in the agreement in the plaintiff's statement of claim mentioned, under any lease, agreement or arrangement existing at date of said agreement or thereafter made in pursuance thereof, whether by renewal of any lease, or new lease within the terms of such agreement, and that the said C. J. Whitney was and the plaintiff is, entitled to one-half of all earnings and profits derived and to be derived therefrom.

(2) An order of reference to the Master-in-Ordinary to take an account of the profits and earnings of the said opera houses and theatres, theatrical enterprises, booking percentages and fees from the commencement of the theatrical season of 1901-2.

(3) Payment by the defendant of the amount which may be found due upon the taking of the said account.

The Master shall report his findings.

Costs and further directions reserved.

HON. MR. JUSTICE BRITTON.

OCTOBER 25TH, 1913.

WEBER & MORRIS.

5 O. W. N. 166.

Payment out of Court—Money Paid in by Mortgagee—Surplus Proceeds of Mortgage Sale—Notice—Personal Service—Service by Publication.

BRITTON, J., *held*, that where money had been paid into Court under an order of the Master, directing that notice be given to the execution creditors such money would not be paid out upon the application of one of said creditors until the other had been notified.

An application by Nisbet & Auld Limited, execution creditors of Nathan Morris, for payment out to them of \$205, now in Court.

This money was paid into Court by Samuel L. Weber, pursuant to an order made by the Master-in-Chambers on the 24th day of June, 1913, and was the surplus realised by sale of property belonging to Nathan Morris, mortgage to Weber. The sale was under the mortgage. The order for payment into Court provided that notice of the payment into Court should be given "by registered post prepaid to