as "will hinder or embarrass the plaintiff in the prosecution of the action;" that if the shareholders or any of them had knowledge of the facts alleged against the defendants they would be liable to indemnify the directors.

The course taken by the defendants here seems to avoid the ground on which the third party notice was refused in the Wye Valley Railway case.

If it is the fact that all the shareholders are in the same position as the two now brought in, then it is not improbable that so many of the others as are solvent will abide by the result of the present procedure. In this way there will perhaps be effected a consolidation of 180 possible actions before they have begun (if such an expression may be allowed). This will certainly be so if the defendants succeed in obtaining an order for representation of the other shareholders by the two now brought in. At present I think the usual order should issue for the trial of the third party issues.

I do not see that the third parties can complain, as Moxham v. Grant, supra, shews that the liquidators might have sued every one who had received part of these dividends, if it had been thought best to do so, instead of attacking the directors.

TEETZEL, J. SEPTEMBER 29TH, 1906.

CHAMBERS.

TITTERINGTON v. DISTRIBUTORS CO.

Company — Winding-up — Action begun before Winding-up Order—Leave to Proceed—Special Circumstances.

Motion by defendants the Bank of Hamilton to rescind an order obtained by plaintiffs allowing this action to proceed, notwithstanding an order for the winding-up of the defendant company.

Britton Osler, for defendants the Bank of Hamilton.

Grayson Smith, for plaintiffs.

J. A. Macintosh, for the liquidator of the defendant company.