

This will depend (1) upon whether the two actions (for such they are) arise out of the same transaction or series of transactions and involve a common question of law or fact; and (2) whether the defendants are the same in both actions; as it was held they were substantially in the *Stroud Case*—I am not to be understood as expressing any opinion on these points at present. The second claim as noted is only against the company and one of the personal defendants: These questions may come up for discussion later—at present an order will go requiring plaintiff to amend as he may be advised so as to conform to Consolidated Rule 185, and to name a venue, if this was not stated in the copy filed. Defendants to have eight days thereafter to plead. The costs of this motion will be to defendants in any event. In *Stroud v. Lawson* the action was properly brought by plaintiff in his two capacities though his statement of claim did not make a case allowing joinder of the two claims.

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION. FEBRUARY 20TH, 1913.

PALLANDT v. FLYNN.

4 O. W. N. 837.

Interpleader—Issue Directed—Plaintiff therein—Security by Claimant—Practice—Leave to Appeal.

BRITTON, J., refused (23 O. W. R. 964), to interfere with the terms of an order of the Master-in-Chambers, directing an interpleader issue between a claimant and the execution creditor, on the ground that it was no moment which party was plaintiff, and the requirement that the claimant should pay into Court the alleged market value of the stock, \$8,000. as security, failing which the stock would be sold, was in accordance with the well-established practice.

MIDDLETON, J., (24 O. W. R. 95) *held*, upon a motion for leave to appeal, that the requirement as to security was unreasonable. Leave to appeal granted.

"No matter what the form of the issue, the real test is whether or not the stock in question shall be taken in execution."

SUP. CT. ONT. (2ND APP. DIV.), varied above order by directing that, on appellants failing to give security, by their undertaking, within 15 days, a sale of the shares seized might be made by sheriff, through brokers, but not for less than \$2,000 net; proceeds of sale to be paid into Court to abide the result of the interpleader issue. Costs reserved.

An appeal by the Canadian Bank of Commerce, from an order of HON. MR. JUSTICE BRITTON, 23 O. W. R. 964, dismissing an appeal by the bank from an interpleader order made by the Master in Chambers.