

an alleged agreement of settlement—and these could not be joined, being inconsistent and mutually destructive, and not both against the same defendants: *Andrews v. Forsyth*, 7 O.L.R. 188; *Quigley v. Waterloo Manufacturing Co.*, 1 O.L.R. 606; *Evans v. Jaffray*, ib. 614, 621. However numerous the defendants, there must be only one claim for relief, based on one injuria in which all are alleged to be implicated. Motion granted with costs.

G. M. Clark, for defendants. J. A. Macintosh, for plaintiff.

Clute, J.]

HOUGHTON v. MAY.

[Dec. 15, 1910.]

*Execution — Seizure of ship under fi. fa. — Ship wrongfully brought by execution creditor from foreign waters into sheriff's bailiwick—Public policy—International law—Ashburton Treaty, art. 7.*

This was an issue in which the plaintiff affirmed and the defendant denied that the ship "Houghton," seized by the sheriff of Essex, under an execution issued in *May v. Houghton*, was improperly brought by the defendant, or with his connivance by others, into the bailiwick of the sheriff of Essex, or came within his bailiwick under such circumstances that the ship was not exigible in execution, and that the seizure was an abuse of the process of the court, and the ship should be released.

The trial judge found that the vessel was cut loose either by the orders of the defendant or with his connivance.

*Held*, 1. It would be against public policy and might create international trouble to permit a seizure under such circumstances.

2. There was a trespass committed, if not a crime, and as the defendant seeks to take advantage of the wrongful act, he ought not to be permitted to do so. See *Edgerton v. Barlow*, 4 H.L.C. 1, 196, and *Ashburton Treaty*, 1842, art. 7.

3. It is not clearly apparent that this article of the treaty applies to the channel between Detroit and Windsor; but, if it did apply, it would not help the plaintiff, if his property was properly within the bailiwick of the sheriff.

A. H. Clarke, K.C., for plaintiff. E. S. Wigle, K.C., for defendant.