

and his family in flying from his house to escape injury from blasts, \$200: total, \$400.—The plaintiff had given the defendants an option to purchase the right of way at a certain price, "to include compensation for all damage which may be sustained by reason of the exercise upon the said lands of the railway company's powers;" and counsel for the defendants contended that this disentitled the plaintiff to claim damages, or at any rate to claim damages under the third head above; but the learned Chief Justice said that this contention was not in consonance with the admission of the defendants' counsel, at the opening of the case, that there was liability, and that it was a mere question of how much should be allowed as damages.—The second action was brought by Patrick Laveck against the railway company for a similar claim. Patrick was not the owner of his lot, but a tenant of Mrs. Carroll, who gave an option to the defendant company in the same terms as that given by Thomas H. Laveck; but there was no option given by Patrick with reference to his own possession and tenancy. The learned Chief Justice assessed Patrick's damages thus: in respect of crops and fences injured, loss of access to creek, and other items, \$50; for loss, etc., in flying from the house as in Thomas's case, \$200: total, \$250.—Judgment for the plaintiff Thomas for \$400, and for the plaintiff Patrick for \$250, in each case with County Court costs and with no set-off to the defendants. The learned Chief Justice adds that, if he had come to the conclusion that the last item of damage in each case was not recoverable, he would not have certified to prevent a set-off of costs. E. G. Porter, K.C., and J. English, for the plaintiffs. W. S. Herrington, K.C., for the defendants.

PECK V. LEMAIRE—MIDDLETON, J., IN CHAMBERS—FEB. 21.

Summary Judgment—Rule 57—Specially Endorsed Writ of Summons—Affidavit under Rule 56—Amount Claimed Disputed—Failure to Give Details—Onus—Account.]—Appeal by the defendant from a summary judgment, under Rule 57, granted by the Master in Chambers. The defendant entered an appearance, under Rule 50, disputing the amount of the plaintiff's claim. The writ of summons being specially endorsed, it was necessary for the defendant to file the affidavit required by Rule 56. The affidavit filed, the learned Judge said, was most