

ment, because it is quite open to the plaintiffs, if so advised, to disclaim by their reply the right which they are supposed to "claim."

Quite apart from this, it is clear that, whether the matter set up is well-founded or not, it is one which ought to be left entirely to the trial Judge. It serves as notice of the contention which is to be made by the defendants at the hearing; and it would be quite out of place to eliminate matters of this importance from the record at this stage. This is not the true function of a motion against pleadings as embarrassing.

The second ground of attack upon the pleading is the way in which the defendants set up certain matters which they rely upon as influencing any discretion which the Court may have to refuse an injunction. I think it would have been preferable if the pleader had used less ornate language; but this, I think, is not sufficient to justify a striking out of the pleading. When one company is described as an "appendix" to another company, a surgical operation is, no doubt, suggested; but the pleader probably used this metaphor in some secondary sense, as, in the same paragraph, he refers to the same company as "a mere creature of" the other; and, although when one finds a metaphor in a legal argument one suspects a fallacy, this is for the trial Judge.

The costs may be in the cause to the defendants.

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BOYD, C.

APRIL 29TH, 1912.

RE GIBSON.

*Lunatic—Committee—Sale of Land—Mortgage as Security for Part of Purchase-money—Mortgage to be Made to Accountant of Supreme Court—Principal and Interest to be Paid into Court—Duty of Committee.*

Application by the committee of a lunatic for an order authorising the applicant to sell lands of the lunatic and take a mortgage thereon in part payment.

W. Greene, for the applicant.

BOYD, C.:—Proceedings in lunacy are matters dealt with by the Court, and usually by orders made by a single Judge. They are within the scope of Con. Rule 66, which requires that all