

GOLDFIELDS, LIMITED v. HARRIS MAXWELL CO.—MIDDLETON, J.,
IN CHAMBERS—JUNE 23.

Pleading—Counterclaim—Particulars.]—Appeal by the defendants from an order striking out paragraph nine of the counterclaim. The learned Judge said that for the same reason as stated in the previous case, the paragraph in question could not be supported. It was also objectionable for another reason. The notice of an alleged fraud upon the shareholders might be some foundation for asking for delay in the prosecution of the action, but where the shareholders are not shewn to have repudiated the transaction in question by reason of any fraud or deceit that there may have been, the plea falls short of what would have been necessary for a dilatory plea. The order for particulars is complained of, and as part of the pleading of which particulars has been ordered is now to be struck out, the order must be amended. Save as to this the order should stand. The defendants must amend the paragraphs in question in accordance with the above, and the order for particulars should be amended so as to confine it to the amended pleading. Costs to the plaintiffs in the cause in any event. F. E. Hodgins, K.C., for the defendants. G. H. Kilmer, K.C., for the plaintiffs.

COONS v. ELVIN—RIDDELL, J.—JUNE 24.

Conveyance of Timber—Sale or Mortgage—Evidence.]—Action for a declaration that a conveyance of timber was but a mortgage security to secure repayment of \$2,500 and interest, and for damages for alleged wrongful sale of timber. The learned Judge held, basing his findings upon the conduct and demeanour of the witnesses, that the bill of sale produced at the trial, correctly and accurately expressed the agreement between the parties, and that the transaction was one of sale out and not of mortgage. Action dismissed with costs. F. E. O'Flynn, for the plaintiff. E. G. Porter, K.C., and J. F. Keith, for the defendant.

HAWES GIBSON & CO. v. HAWES—MEREDITH, C.J., IN CHAMBERS
—JUNE 27.

*Examination for Discovery—"Party Adverse in Interest"—
Con. Rule 439.*]—Appeal by the receiver from the order of the