action, if necessary, upon the defendants being paid or settled with by the Commission, or upon new or other facts and circumstances. Dismissal of action to be without costs. J. A. Ritchie, for the plaintiff. J. H. Moss, K.C., and J. Lorn McDougall, for the defendants.

BERLIN LION BREWERY CO. v. LAWLESS—MASTER IN CHAMBERS—JUNE 11.

Summary Judgment—Rule 603—*Action for Balance Due on Promissory Notes—Suggested Defence—Unconditional Leave to Defend.*]—On the 15th November, 1912, the defendants gave the plaintiffs a mortgage on lands in the city of Ottawa for $6,000, payable two years after date. At the same time they gave two promissory notes for $3,000 each, payable three months after date. The real indebtedness had not at that time been ascertained. These notes had admittedly not been paid. The plaintiffs sued upon the notes, and moved for summary judgment, under Rule 603, for an alleged balance of not quite $5,000. The defendant J. A. Lawless made an affidavit that, when he and his wife, the co-defendant, gave the mortgage and notes, it was agreed that the notes were given at the plaintiffs' request so that they could be used with the bank; but that they were only for the plaintiffs' accommodation, and were to be renewed during the currency of the mortgage. It did not appear whether these notes were given at or after the execution of the mortgage. The defendant J. A. Lawless was not cross-examined on his affidavit. The president of the plaintiff company was cross-examined on his affidavit in support of the motion. He refused to admit the defendants' contention that the mortgage was the real security. He said, however, that he went to Ottawa, where the defendants were apparently residing at the time, and threatened action. He went to Ottawa specially for the purpose of getting "the matter straightened out." When the defendant suggested a mortgage, the president said that it was "quite satisfactory," and that "we took the notes and made use of them." The Master said that, in view of these admissions and the affidavit of the defendant J. A. Lawless, the motion could not succeed. The doctrine of merger might apply—as the defendants were joint mortgagors, and the notes apparently were several only; the case might be ruled by Wegg