

anics' lien contest to bar Dick in his independent action and stay all proceedings therein perpetually. All things necessary to work out the liens *quoad* the land are within his jurisdiction, but I do not think a wider scope should be given to the provisions of the Act 10 Edw. VII. ch. 69, sec. 37. I vacate the order to stay proceedings with all costs of motion and appeal to be in the cause to the plaintiff.

MASTER IN CHAMBERS.

SEPTEMBER 25TH, 1912.

BLACK v. CANADIAN COPPER CO.

4 O. W. N.

Particulars—Negligence—Statement of Claim—Damage to Stock of Florist by Noxious Gases—Particulars Unnecessary—Motion Premature.

Motion for particulars of negligence and damage alleged in statement of claim. Action was for damage to the business and stock of plaintiff, a florist, by noxious gases, vapors, acids and smoke alleged to have been wrongfully and negligently permitted to escape from defendant's works.

MASTER-IN-CHAMBERS, held, that as the allegation of negligence was unnecessary to plaintiff's case, he need not give particulars of it. *Tipping v. St. Helen's Smelting Co.*, 4 B. & S. 608, 616; 11 H. L. C. 642, referred to.

That particulars of damage were premature. Motion dismissed, costs in cause, without prejudice to plaintiff's right to renew application after discovery.

Action brought by a florist residing at Sudbury against defendant company to restrain it "from continuing to allow the escape of noxious vapors, gases, acids, smokes, etc., from its roastbeds and smelter on to the lands of plaintiff, and the vegetation thereon." Plaintiff also claimed \$5,000 as compensation for damages already suffered.

In the 4th paragraph of the statement of claim it was said that defendant company "wrongfully and negligently permitted and allowed the said noxious vapors, gases, acids and smoke to escape," and thereby caused plaintiff great damage in respect of his plants, flowers, trees, etc. In 5th paragraph it was said that plaintiff in consequence of the continued damage had been obliged at great sacrifice to sell his property and to move some miles from Sudbury if he was successfully to carry on his business in case defendant company were permitted to continue its present methods of smelting.