cal payments, and consequently no question of outlawry, arises here.

There will be judgment declaring that the plaintiffs are not entitled to recover upon the mortgage or enforce it in any way, and dismissing the action with costs; and directing and ordering the plaintiffs to execute and deliver to the defendant a statutory discharge of the mortgage.

I have not overlooked the statements of account of 1905 and 1909. The first is not inconsistent with the conditions then existing as set up by the defendant. The other is; but, corroborated as the defendant was upon all the principal issues, and the evidence of the defendant appealing to me, as it did, as honest evidence, I accept his statement as to how the document of 1909 was obtained. I would have dismissed the action as against Angelina Berube with costs, had I given judgment for the plaintiffs. The defendants were defended by the same solicitors and counsel; and, dismissing the action with costs, no further order is necessary.

TAYLOR v. EDWARDS—KELLY, J., IN CHAMBERS—OCT. 5.

Summary Judgment—Mortgage — Foreclosure — Defence — Rules 56, 57.]—Appeal by the defendant Smith from an order of the Master in Chambers granting summary judgment against him in a mortgage action for foreclosure. With his appearance the appellant filed the affidavit required by Rule 56, and he was cross-examined thereon. Both in the affidavit and in the cross-examination he set up dealings he had with a third party or third parties, but of which there was no evidence whatever that the plaintiffs had any knowledge. Neither in the affidavit nor in the cross-examination was it stated that the appellant had a defence to the action, and his counsel was unable to go further than to say that, if the appellant were allowed to proceed to trial, he might be able to establish a defence. The learned Judge said that that was not sufficient reason for refusing judgment under Rule 57, one of the purposes of which was to afford, in case a defendant has appeared to a specially endorsed writ, a means of obtaining judgment without going to trial, if the defendant in his affidavit or in cross-examination has not disclosed such facts as may be deemed sufficient to entitle him to defend. No such facts were here disclosed, the defendant not having even gone so far as to say that he had a defence. The appeal was dismissed with costs. J. F. Boland, for the appellant. G. T. Walsh, for the plaintiffs.