

CURRY V. WETTLAUFER MINING CO.—MASTER IN CHAMBERS—
DEC. 17.

Mining Case—Discovery—Further Examination of Engineer—Production of Time Sheets.]—Motion by plaintiff for further examination of engineer of defendant company, and for further affidavit on production. The plaintiff owned nine-tenths of mining claim H.R. 105, and the defendant company owned the other undivided tenth, which it acquired on or about 1st January, 1912. It also owned claim H.R. 85, which diagonally adjoins claim H.R. 105. It was alleged in the statement of claim that by reason of a right of entry on the Silver Eagle Mining Co., lying between the southerly boundary of H.R. 85 and the easterly boundary of H.R. 105, the defendant company wrongfully entered on and worked claim H.R. 105 before it had acquired the undivided one-tenth therein. The 4th paragraph of the statement of defence said that, prior to the acquisition of that tenth, the defendant company did not enter upon the plaintiffs' property, and did not work the same or remove any ore therefrom. The engineer was examined twice, and the depositions were very bulky, which was largely due to the lengthy and frequent discussions between counsel on the question of the relevancy of the questions asked, and as to the right to have certain documentary evidence produced. The chief point for consideration was as to certain time sheets or reports which, the plaintiff's counsel said, would shew if the allegation referred to in the statement of defence is correct or not. Counsel for the defendant company did not either refuse to produce, or agree to do so, without qualification. He was willing to let them be seen, but not to produce them as being relevant. He was willing to produce the engineer for further examination if such is ordered, without further payment. THE MASTER: "As at present advised, I think the engineer should attend again and produce the time sheets or daily reports of work done. The matter can rest there for the present, and the question of a further affidavit on production can be left for further consideration in the light of what may then be disclosed, if plaintiff is still dissatisfied." The costs of the motion to be in the cause. Britton Osler, for the plaintiff. W. M. Douglas, K.C., for the defendants.