ance Co. (1917-18), 41 O.L.R. 108, 58 Can. S.C.R. 169; and see also Ross v. Scottish Union and National Insurance Co. (1919-20), 17 O. W. N. 166, 46 O.L.R. 291, ante 77. The motion was heard in the Weekly Court, Toronto. MIDDLETON, J., in a written judgment, said that he had grave doubt as to the possibility of a motion such as this being successfully made. It had been held that an action may be stayed as vexatious and as an abuse of the process of the Court where a plaintiff seeks to litigate matters already adjudicated upon adversely to him. No case was cited and none could be found going to shew that a plaintiff has the right to attack a pleading of the defendant in the same way. It appeared that the most he could do was to plead the formal judgment and rely upon it at the hearing. But in this action there was much difficulty in determining whether the former adjudication prevented the defendants from now setting up the matters relied upon; and it would be highly inexpedient to attempt to discuss or determine the problems thus presented. The matter must be left to be dealt with at the trial, when the issues actually to be tried become more distinctly formulated, and the evidence relied upon is presented. The motion failed and should be dismissed with costs, to be paid by the plaintiffs to the defendants in any event. H. J. Macdonald, for the plaintiffs. W. J. Beaton, for the defendants.

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Contract—Sawing Logs—Action for Price—Inferiority of Lumber Delivered—Counterclaim—Damages—Costs.]—Action to recover the price of sawing logs for the defendant and for certain minor items. In the defence and counterclaim the allegation was made that the lumber was not cut from the logs in accordance with the terms of the contract, and that in the result the defendant had received so much inferior lumber that the loss so occasioned had resulted in damages to an amount exceeding the amount due to the plaintiff. The action and counterclaim were tried without a jury at Owen Sound. MIDDLETON, J., in a written judgment, said that the evidence was far from satisfactory, as details were almost entirely lacking; but he was satisfied that the lumber was not cut in accordance with the contract, and that the defendant had sustained substantial damage by reason of the breach of contract. The claim made by the defendant was, however, too large. The temptation was always present to the plaintiff to cut the lumber in such a way as to give the greatest possible quantity of feet (board measure) with the least possible