

thus converting a special indorsement into an indorsement in blank.

*Held*, that such an alteration was not a material one such as would avoid a note: *Hirschfeld v. Smith*, L.R. 1 C.P. 340; nor was it sufficient to put the defendants upon inquiry.

*Crichton and McClure*, for plaintiff. *Hudson and Garland*, for defendants.

Cameron, J.]

[Nov. 3, 1908.

MACLEAN v. KINGDON PRINTING CO.

*Pleading—Prolixity—Striking out pleadings as embarrassing.*

Appeal from an order of the Referee refusing to strike out, under Rule 326 of the King's Bench Act, certain paragraphs of the plaintiff's statement of defence to the defendant's counterclaim as embarrassing and tending to prejudice and delay the fair trial of the action. The objections were that the paragraphs referred to contained passages which were merely recitals of the evidence proposed to be adduced and other passages setting out facts which were immaterial and unnecessary.

*Held*, that, notwithstanding the amendment of Rule 326 by 7 & 8 Edw. VII. c. 12, s. 6, by inserting the word "unnecessary," Rule 306, as to what pleadings shall contain, remains precisely as it was before, and that the allegations objected to were merely prolix, and were neither embarrassing nor tending to prejudice or delay the fair trial of the action, and that the order of the Referee was right.

*Theo Noel Co. v. Vitae Orae Co.*, 17 M.R. 319, and dictum of BOWEN, L.J., in *Knowles v. Roberts*, 38 Ch.D., at p. 270, followed.

*Beveridge*, for plaintiff. *Grundy*, for defendant.

Cameron, J.]

[Nov. 3, 1908.

COUSINS v. CANADIAN NORTHERN RY. CO.

*Practice—Particulars—Malicious prosecution.*

Action for malicious prosecution. The statement of claim alleged that the defendant caused and procured one John McKenzie, to lay a series of criminal charges against the plaintiff and the referee had ordered the plaintiff to furnish "further and better particulars in writing of the manner in which the defendant caused and procured" the charges to be laid.