

Province of British Columbia.

SUPREME COURT.

Walkem, J.] E. & N. RAILWAY CO. v. NEW VANCOUVER COAL CO. [June 3.
*Practice—Pleading—Embarrassing statement of claim—General allegation of
plaintiffs' title—Rule 181.*

Summons to strike out the following paragraph of the plaintiffs' statement of claim as embarrassing : " The plaintiffs are the owners and occupiers of certain lands known as Newcastle Townsite, and of the foreshore rights in respect thereof, situate on Vancouver Island, and are the owners of the coal under the foreshore and sea opposite the said lands, and of the exclusive right of mining and keeping for its own use all coal and minerals under the said foreshore and sea opposite the said lands." The plaintiffs, who had never been in possession sued to recover certain coal seams, and the above paragraph of the statement of claim contained the only allegation as to how the plaintiffs claimed title.

Held, following *Phillips v. Phillips*, 4 Q. B. D. 127, that the defendants were entitled to full particulars of the title under which the plaintiffs claimed. Ordered that plaintiffs amend statement of claim by giving particulars within five weeks. Costs to be costs in the cause.

E. V. Bodwell, for plaintiffs. *Gordon Hunter*, for defendants.

ESQUIMALT ELECTION CASE.

Martin, J.] JARDINE v. BULLEN. [Oct. 5.
Election petition—Practice—Case stated—R.S.B.C., c. 67, s. 231, s.-s. 8.

Summons by petitioners that that portion of the case raised by the petition which alleged that the Returning Officer erroneously received certain ballot papers as votes for the respondent which were not marked according to law, and erroneously rejected certain ballot papers properly marked according to law as votes for David William Higgins, and which further alleged that the said David William Higgins was duly elected, be stated as a special case. Numerous charges of bribery and corruption were also set forth in the petition. S.-s. 8 of s. 231, of the Provincial Elections Act is as follows : " Where, upon the application of any party to a petition, made in the prescribed manner to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct the same to be stated accordingly, and any such special case shall, as far as may be, be heard before the Court, and the decision of the Court shall be final ; and the Court shall certify to the Speaker its determination in reference to such special case." Had the application been successful, the effect of it would have been to obtain a recount. It was objected on behalf of the respondent that the Court was not empowered under the section to do otherwise than to state the whole case.

Held, that where the case raised by an election petition embraces several distinct grounds of complaint, the Court has no power to state only one part of the case.

Duff, for the summons. *Hunter*, contra.