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No. 24.

BOYD, C.

JUNE 10TH, 1902.

TRIAL.

PATRIARCHE v. KAMMERER.

*Promissory Note—Presentment—Notice of Dishonour—Demand
Prior to Action—Power of Attorney—Bills of Exchange Act,
secs. 57, 85.*

Action for re-delivery of 70,000 shares of mining stock, subject to the payment by plaintiff of two promissory notes for \$400 and \$250 respectively, or for payment over of the proceeds of the sale of the shares, if sold, after payment of the amount of the notes. Counterclaim for payment of two notes of \$5,000 and \$300 respectively, made by the Electrical Maintenance and Construction Company, of which the plaintiff is manager, and for the delivery of 30,000 shares of mining stock in the same company, which had been delivered to the defendant with the 70,000 shares, but had been borrowed by the plaintiff from him afterwards. The notes were indorsed by the defendant by counterclaim, Frances M. Patriarche, wife of the plaintiff. The defendant claimed payment of the four notes less \$100 paid on account of the \$300 note. The defendant Frances M. Patriarche alleged that she had not due notice of dishonour of the notes for \$5,000 and \$300 respectively, and that they had not been duly presented for payment.

N. F. Paterson, K.C., for plaintiff.

G. T. Blackstock, K.C., for defendant.

BOYD, C.—I held at the hearing that the shares of the Blaine Company were held by the defendant in security for all that he owed, i.e., for the \$5,000 note, the \$400 note, and the \$250 note, mentioned in pleadings.

I find that the plaintiff and wife are both liable for the amount of the \$5,000 note payable on demand with interest