

for setting down the appeal or for the omission of the appellants to set it down for the sittings which began 23rd April. The absence of any affidavit from the defendants' solicitors is very significant. It ought to have been shewn when the exhibits required were first written for, and when they were received from the island, and it does very clearly appear that, whatever delay and difficulties there may have occasionally been in communication between the island and the mainland, abundant time remained in which to have surmounted them all, and to have procured the necessary papers in time to have got the appeal books ready and to have set the case down for the last session of the Court. No application was made until long after that session began. I do not even know, except from a not very firm statement from one of the counsel who appeared on the motion, what is the nature of the action, and no one could suggest the nature of the defence or the amount of the referee's award. This may be but trifling, and it rested with the appellants to shew that the case was of so important a nature, either from the magnitude of the amount at stake or from the questions of law involved, that justice required that the delay on their part should, on some terms, be overlooked. This has not been shewn, and I must therefore dismiss the motion. I do so without costs because of the language used in plaintiff's affidavit. It serves no purpose, and is especially objectionable in the affidavit of a professional gentleman, to stigmatize statements in the affidavit of another deponent as "absolutely false to his knowledge," or as "cunningly devised and deliberately made to produce innuendoes false to his knowledge and intended to mislead." It is enough to state the facts as the deponent understands them, leaving it to the Judge to determine between opposing statements.

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MAY 28TH, 1906.

DIVISIONAL COURT.

YEMEN v. MACKENZIE.

*Land Titles Act—Registration of Caution—Application to Vacate—Status of Applicant—Registered Owner Impeaching Mortgage — Determination of Invalidity of Mortgage by Local Master of Titles—Jurisdiction.*

Appeal by plaintiff from order of BRITTON, J., ante 201, dismissing plaintiff's appeal from order of local Master