

KEENAN WOODWARE MANUFACTURING CO. v. FOSTER—
DIVISIONAL COURT—OCT. 24.

Contract—Supply of Timber Bolts—Construction of Contract—Breach—Counterclaim—Damages.]—An appeal by the defendant from the judgment of the Judge of the County Court of the County of Grey, in favour of the plaintiffs, for the recovery of \$500 upon their claim with costs, and dismissing the defendant's counterclaim with costs. The action was to recover \$500 paid by the plaintiffs to the defendant for getting out timber bolts under a contract, or \$500 damages for breach of the contract. The counterclaim was for damages for breach of the contract. The appeal was heard by BOYD, C., LATCHFORD and MIDDLETON, J.J. The judgment of the Court was delivered by BOYD, C., who said that the breach of contract was not on the part of the defendant, as the County Court Judge had found, but on the part of the plaintiffs. The defendant had the quantity of bolts ready to be shipped at a proper place, and the plaintiffs made default in providing means for their transportation according to the contract, as the Court construed it. The action, therefore, failed. Upon the counterclaim, the Court allowed the defendant \$199. Appeal allowed with costs; action dismissed with costs; and judgment for the defendant upon the counterclaim for \$199 with costs. W. M. Douglas, K.C., for the defendant. W. S. Middleboro, K.C., for the plaintiffs.

SMYTH v. HARRIS—MASTER IN CHAMBERS—OCT. 24—MIDDLETON,
J.—OCT. 25.

Pleading—Statement of Claim—Action to Restrain Nuisance—Joinder of Plaintiffs—Property Rights and Interests—Embarrassment—Prejudice—Joinder of Causes of Action—Election—Attorney-General.]—Motion by the defendants (1) to strike out the names of Robins Limited and F. W. Tanner and F. W. Gates as plaintiffs; (2) to compel the plaintiffs to amend by electing in which plaintiff's name the action will proceed, to strike out the other name or names, and to stay the action meanwhile; (3) to strike out of paragraph 1 of the statement of claim the clauses beginning "The plaintiffs Robins Limited" and "The plaintiffs Tanner and Gates," or to compel the plaintiffs to disclose what interest those plaintiffs have; (4) to strike out that part of paragraph 4 beginning "On the last occasion," as contrary to Con. Rule 298 and embarrassing, and also the words "and property," for the same reason; (5) to strike out of paragraph 4 the clauses