

The claim is based on partnership, and the defendants Ulrey and Marskey are charged with violating the known rights of the plaintiffs, and the other defendants are alleged to be colluding with them and aiding them in what the plaintiffs say (whether truly or not cannot now be inquired into) is a fraudulent scheme to deprive plaintiffs of their rights.

The statement of claim is longer than usual, but it is not necessarily objectionable on that account. If any of the allegations are irrelevant in defendants' view, they can safely leave them alone. *Blake v. Albion Life Insurance Co.*, 4 C. P. D. 94, compared with the previous decision in that case, to be found in 35 L. T. 269 and 45 L. J. C. P. 663, shews how dangerous it is to strike out matters as being, if relevant at all, only evidence, which are afterwards found to be allegations of some of the material facts on which a plaintiff succeeds. See too *Millington v. Loring*, 6 Q. B. D. 190.

Both motions against the statement of claim are dismissed—costs in cause to plaintiffs.

Defendants should plead in a week. . . .

I refer to a similar case of *Lee v. Meehan*, 17th March, 1905, not reported, affirmed on appeal by Meredith, C.J., 21st March; see *Chambers book*, No. 27, p. 134.

BRITTON, J.

OCTOBER 18TH, 1907.

CHAMBERS.

CLISDELL v. LOVELL.

Jury Notice—Striking out—Separate Sittings for Jury and Non-jury Cases—Practice.

Motion by defendants Lovell, McKenzie, and the Dominion Brewery Co., for an order striking out the jury notice filed and served by plaintiffs.

W. H. Blake, K.C., for the applicants.

H. Cassels, K.C., for defendants Case and the Case Co.

H. Ferguson, for defendant Millar.

W. N. Tilley, for plaintiffs.