

public man consists of statements of fact and comment upon them, it is not permissible to a defendant to plead as a blanket defence, covering all that he has alleged, that it is all fair comment. He must plead that the facts stated are true, and that the rest is fair comment. There is no such thing as a defence of privilege attaching to untrue statements with regard to the acts of a public man, even though the publisher believes his statements to be true, or has been, as he believes, credibly informed by others that they are true: *Davis v. Shenstone*, 11 App. Cas. 187; *Bryce v. Rusden*, 2 Times L. R. 435; *Crow's Nest Pass Coal Co. v. Bell*, 4 O. L. R. 660, 1 O. W. R. 679.

In the present case defendants appear to have adopted and published, as true, statements of fact as to certain transactions in which plaintiff has been concerned, and to have introduced them in certain remarks upon a speech made by plaintiff, to shew that parts of his speech were at variance with the truth. Defendants are not entitled to plead, as they are attempting to do, that these statements of alleged facts, as well as the comments they made upon them, are all fair comment. The paragraphs attached must be struck out, unless defendants elect to amend in the manner pointed out in the last case cited, by setting out the facts upon which they allege the article complained of was a fair comment, and alleging the truth thereof, and by setting up as to the expressions of opinion that they are fair comment upon such matters of fact.

Appeal allowed with costs here and below.

BRITTON, J.

JUNE 26TH, 1903.

TRIAL.

O'BRIEN v. CORNELL.

Deed—Conveyance of Land—Cutting down to Mortgage—Evidence—Appreciation of—Redemption—Costs.

An action to set aside a conveyance absolute in form and have it declared to be a mortgage and for redemption, tried at North Bay on the 22nd May, 1903, without a jury, before BRITTON, J.

J. M. Macnamara, North Bay, for plaintiff.

H. E. McKee, Sturgeon Falls, for defendant.

BRITTON, J.—The plaintiff, being the owner of lots 6 and 7 on the east side of Pembroke street, in the village of Sturgeon Falls, borrowed from the defendant \$200, and in security for that amount, on the 14th July, 1900, executed a mortgage on these lots to the defendant. The proviso was