

3. The remedy of the plaintiffs, if they could establish that the by-law conflicts with special privileges conferred on them by certain legislation and the agreements authorized thereby, would be to resist the invasion of their rights by injunction or otherwise, but not by motion to quash the by-law in question which must stand, if it is authorized by the charter of the city. *Anderson*, K.C., for plaintiffs. *Hunt*, for defendants.

Metcalf, J.]

CUPERMAN v. ASHDOWN.

[Feb. 26.]

*Practice—Particulars—Action against owner of a motor vehicle for killing a person—Negligence—Motor Vehicle Act.*

Plaintiff sued as administrator of S. The statement of claim set out that the defendant's servants, while driving a motor vehicle belonging to him along a public highway, operated the motor vehicle so negligently that S., who was then riding a bicycle on said street, was struck by the motor vehicle and instantly killed. The defendant's application for an order for particulars was dismissed by the referee. The plaintiff swore that he had no personal knowledge of the manner in which S. came to his death, and that he had no means of obtaining the knowledge necessary to give the particulars asked for.

*Held*, on appeal from the referee, that, taking into consideration the nature of the action, that some particulars were given in the statement of claim, and in view of the effect of s. 38 of 7 & 8 Edw. VII. c. 34, particulars should not be ordered.

*Miller v. Westbourne*, 13 M.R. 199; and *Brown v. Great Western Ry. Co.*, 26 L.T. 398, followed.

*Cohen*, for plaintiff. *Montague*, for defendant.

Mathers, C.J.]

IN RE MONTGOMERY.

[March 3.]

*Administration—Corroboration of evidence of claimant against estate of deceased—Voluntary payments by husband for wife—Liability of husband for wife's funeral expenses.*

*Held*, 1. Although there is no rule of law that requires the evidence of a claimant upon the estate of a deceased person to be corroborated, yet it is a rule of prudence for the protection of the estate from unfounded claims; and when the Master, in taking the accounts of the husband as administrator of the