

apart as to the facts. I cannot see anything culpable in the conduct of the garnishee to deprive him of his costs.

An order will issue, in the usual form, directing payment into Court, less the taxed costs of the garnishee, of the amount in his hands. There will be an issue directed between Hunter et. al. as plaintiffs and the Wilkinson Plough Co. as defendants. The question will be whether the plaintiffs in that issue are entitled to the moneys by reason of their alleged assignment or not.

The costs of this motion, as between the parties to the issue, will abide the result.

STREET J.

JUNE 26TH, 1903.

CHAMBERS.

CONMEE v. LAKE SUPERIOR PRINTING CO.

Libel—Pleading—Defence—Fair Comment—Untrue Statements of Fact—Embarrassing Pleading—Amendment.

Appeal by plaintiff from order of Master in Chambers (ante 509) dismissing application by plaintiff to strike out paragraphs 4 and 5 of the amended statement of defence of defendant Russell and the 3rd paragraph of the statement of defence of defendant company, or in the alternative for a better statement of the nature of the defences, or for particulars. The plaintiff had been a member of the Provincial Legislature, and was again a candidate for re-election at the time of the publication of the alleged libel.

N. W. Rowell, K.C., for plaintiffs.

C. A. Moss, for defendants.

STREET, J.—Even a public man engaged in a Parliamentary election has certain rights, and one of them is that he may bring an action for libel in case statements are published asserting that he has been guilty of improper acts, unless those statements are true. All acts of his, bearing upon his public position in any way, or as to his fitness or unfitness for it, are public property, and may be commented upon within the limits of what is known as fair comment; but there is a distinction between commenting upon acts which he has actually committed, and commenting upon acts which he is alleged, untruly, to have committed. To invent statements of facts, or to adopt as true the untrue statements of facts made by others, and then to comment upon them as being true is not fair comment, and is not protected. The result is that where an alleged libel upon a