

Paragraph 3 seems to have been based on the familiar case of *Millington v. Loring*, 6 Q. B. D. 190. This justifies the allegation of seduction, see Odgers on Pleading, 5th ed., pp. 398 and 419. But this paragraph must be amended, if the claim in respect of the child is to stand.

Chapter 169 R. S. O. (1897) gives a right of action to any one who provides necessaries for any child born out of lawful wedlock (sec. 1). But it is provided that the fact of paternity must in such a case as the present be proved by other testimony than that of the mother (sec. 2), and by sec. 3, that no action shall be sustained unless the mother has complied with certain directions therein set out. This paragraph should, therefore, be amended so as to comply with the statute or else limited to the claim for breach of promise as aggravated by the alleged seduction as in Precedent No. 49 in Odgers, p. 398.

Whatever is essential to the cause of action is a material fact and should, therefore, be set out in the statement of claim under C. R. 268. See *Phillips v. Phillips* (1878), 4 Q. B. D. 127 at p. 133, where Brett, L.J., said: "If parties were held strictly to their pleadings under the present system they ought not to be allowed to prove at the trial as a fact on which they would have to rely in order to support their case, any fact which is not stated in the pleadings. Therefore, again in their pleadings they ought to state every fact upon which they must rely to make out their right or claim."

The defendant to have 10 days after amendment to plead. Costs of the motion will be in the cause.