

vexatious, and to stay the action or to dismiss it; and supplemental motion by one of the defendants, the liquidator of the Consumers' Electric Company of Ottawa, to strike out paragraph 15 of the statement of claim for prolixity.

A. E. Fripp, Ottawa, for defendants the corporation of the city of Ottawa.

Glyn Osler, Ottawa, for defendant liquidator.

R. G. Code, Ottawa, for defendant Ellis.

F. R. Latchford, K.C., for plaintiff.

ANGLIN, J.:—Plaintiff sues as a ratepayer of the city of Ottawa, and on behalf of himself and all other ratepayers. Defendant Ellis is mayor of the city of Ottawa. The Consumers' Electric Company were the owners of an electric lighting plant which the city of Ottawa sought to acquire.

Plaintiff alleges that, at a meeting of the council of the corporation of the city of Ottawa, held on 17th July, 1905, a definite agreement was reached with the Consumers' Company, by which the corporation were to acquire, for . . . \$200,000, the plant of the company as it then stood in the city, and, in addition, supplies not converted into plant then in the possession of the company, to the value of \$3,000; that a by-law authorizing the making of such agreement, which had been previously twice read, was then read a third time and passed, and the mayor was authorized to execute such agreement, which was set out as a schedule to the by-law. Plaintiff further alleges that the mayor, on the following day, executed a materially different agreement, which, he charges, has, if binding, the effect of depriving the city of Ottawa of their right to the \$3,000 worth of supplies and may also render the city liable to pay the company a further sum of \$3,771.79. The alleged alteration consisted in the insertion, after the word "whatsoever," in the phrase "supplies of every kind and description whatsoever up to the value of \$3,000," of the words "on hand on the 30th April, 1905." The company had, between 30th April and 17th July, converted into "plant" a large quantity of what were "supplies" at the former date. The value of these the liquidator alleges amounted to \$6,771.79. It was stated at bar, upon evidence contained in examinations had upon the present motions, that, after executing the agreement in its altered form, defendant Ellis caused the cheque of the municipal