

HIGH COURT DIVISION.

CLUTE, J., IN CHAMBERS.

JUNE 14TH, 1915.

AUGUSTINE AUTOMATIC ROTARY ENGINE CO.
LIMITED v. SATURDAY NIGHT LIMITED.*Libel — Newspaper — Pleading — Statement of Defence — Fair
Comment — Particulars.*

Appeal by the plaintiff company from an order of the Master in Chambers refusing a motion by the plaintiff company to strike out the particulars delivered by the defendant company or for better particulars under a paragraph of the statement of defence.

The action was for libel, the writing complained of being an article published in the defendant company's newspaper.

The defendant company denied the publication and the innuendo alleged by the plaintiff company, and pleaded that, if the defendant company did publish the words complained of, "the said words, in so far as they consist of allegations of fact, are true in substance and in fact, and, in so far as they consist of expressions of opinion, are fair and bonâ fide comments, made in good faith and without malice upon the said facts, which are matters of public interest, and the publication of the same was for the public benefit."

An order was made by the Master in Chambers directing the defendant company to deliver particulars under the paragraph quoted, and the particulars now complained of were delivered pursuant to that order, which was not appealed against.

W. J. Elliott, for the plaintiff company.

G. M. Clark, for the defendant company.

CLUTE, J., said that the plea under which the particulars were delivered was not one of justification but of fair comment: *Digby v. Financial News Limited*, [1907] 1 K.B. 502; *Peter Walker & Son Limited v. Hodgson*, [1909] 1 K.B. 239; *Lyons v. Financial News Limited* (1909), 53 Sol. J. 671. Particulars must be relevant to the issue; if they are irrelevant or vague or embarrassing, they will be struck out: *Markham v. Wernher Beit and Co.* (1902), 18 Times L.R. 763 (H.L.); *Higginbotham v. Leach* (1842), 10 M. & W. 363. A defence which leaves it in doubt what the defendant justifies and what he does not will