

urged was that the work had not been completed according to contract, because the east wall of the building was not plumb, but at a certain point projected towards the east, to the extent of about two inches. The referee gave judgment in favour of plaintiffs.

C. A. Masten, for appellant.

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

The judgment of the Court (FALCONBRIDGE, C.J., STREET, J.) was delivered by

STREET, J.—Though the evidence was involved and very conflicting, a perusal of it leads to the conclusion that the bulge was the result of something done by the defendant and his employees in putting up a heavy cross-beam. The bulge was discovered shortly after the beam had been put up, and the mischief might then have been set right for a trifling sum. The plaintiffs proposed gradually to bring the portion of the wall yet to be built into line with the bottom, and to this the defendant assented, so that he is now estopped from setting up his present contention. He had practically acceded to the plaintiffs' view of the cause of the defect.

After the completion of the contract he promised to pay the plaintiffs, and made no complaint on this subject until they had registered a lien.

Appeal dismissed with costs.

FALCONBRIDGE, C.J.

DECEMBER 23RD, 1902.

CHAMBERS.

HAY v. BINGHAM.

*Defamation—Pleading—Statement of Claim—Setting out whole Newspaper Article—Parts not Referring to Plaintiff—Innuendo.*

Appeal by plaintiff from order of local Master at Ottawa striking out paragraph 4 and part of paragraph 5 of the statement of claim in an action for libel and slander. The defendant was a candidate in the Liberal interest for the representation of the city of Ottawa in the Ontario Legislature at the general election in May, 1902, and the plaintiff was a supporter of the Conservative candidate at such election. Paragraph 4 stated that the defendant was defeated at the election, and on the following day, the 30th May, 1902, falsely and maliciously caused to be printed and published in the form of an interview in the issue of the "Free Press"