

The plaintiff, on the 4th April last, filed a joinder of issue and reply; and, five days later, asked for particulars of the "specific actions of the board of control and city council referred to in paragraph 6," and "of the specific allegations of fact which are referred to in paragraph 7 and which are therein alleged to be true."

On the 10th April, particulars were given. Those under the 6th paragraph consisted of eight matters in respect of which, it was said, the ratepayers were dissatisfied, which were also those referred to in the 7th paragraph as matters of public interest and concern. Under this latter paragraph, the specific allegations said to be true were also given. These were, in effect, that the plaintiff was not as competent to be a controller as Mr. Davidson had been, he having been a very successful man of great ability and of municipal and business experience, whereas the plaintiff had been conspicuously unsuccessful in business matters of his own and in those of others intrusted to him.

The ground of the motion is, that the defendant (if I rightly apprehend counsel's argument) should have pleaded a justification of the innuendo and set out facts on which he relies as to this, and that he is attempting to evade this by the course adopted, as he has distinctly said in paragraph 7 of his particulars that he has not made nor does he make any charges of misconduct against the plaintiff as a member of the board of control or of the council.

The cases cited which are most in point are the following: *Crow's Nest Pass Coal Co. v. Bell* (1902), 4 O.L.R. 660; *Digby v. Financial News*, [1907] 1 K.B. 502; *Hunt v. Star Newspaper*, [1908] 2 K.B. 309; *Peter Walkers v. Hodgson*, [1909] 1 K.B. 239.

The last is the one nearest to the present. This seems to shew that the defendant cannot be required to change his pleading, if he is prepared to rely on the plea of fair comment, and hopes to shew that the facts given in his particulars are substantially true, and that the comments made by him and based upon those true facts were fair and such as, in the opinion of a jury, might reasonably have been made (p. 251); also (at p. 257) it was said by Kennedy, L.J., quoting Lord Atkinson's judgment in *Dakhyl v. Labouchere*, [1908] 2 K.B., at p. 329: "A personal attack may form part of a fair comment upon given facts truly stated if it be warranted by those facts—in other words, in my view, if it be a reasonable inference from those facts."