

G. S. HOLMESTED, K.C.

SEPTEMBER 24TH, 1913.

COLUMBIA GRAPHOPHONE CO. v. REAL ESTATES
CORPORATION, LIMITED.

5 O. W. N. 53.

*Pleading—Particulars — Statement of Claim — Items of Damage—
Right of Defendants to.*

HOLMESTED, K.C., ordered particulars of damages alleged to have been suffered by the plaintiffs, lessees of certain premises, by reason of alleged breaches of covenant on the part of their lessors.

Motion for better particulars of statement of claim in an action by lessees against their lessor to recover damages for breaches of agreements contained in the lease as to furnishing electric energy and steam power to the plaintiffs for the purpose of their business. Various grounds of loss and damage were stated in general terms in the statement of claim and a demand was made by the defendants for particulars of some of the allegations. This demand was answered by the plaintiffs, but the defendants contended that the answer was insufficient.

J. G. Smith, for the defendants.

O. H. King, for the plaintiffs.

GEO. S. HOLMESTED, K.C.:—When the matter was being argued it occurred to me that what was really wanted was particulars of the damages which the plaintiffs allege they sustain and that as it was improbable that on the trial of the action the Court would go into the question of the quantum of damages, but would probably refer that question to a Master, it might be regarded as a premature proceeding now to require the plaintiffs to deliver the required particulars. If this were a plaintiff seeking particulars from a defendant in reference to the plaintiff's damages, that might be so, but on further consideration I have come to the conclusion that where a defendant is applying for particulars from the plaintiff of his alleged damage the case is different and that what in the case of a plaintiff might not be proper to grant, may be quite proper to grant in the case of a defendant. The inquiry into the particulars of the plaintiffs' alleged damage appears to be necessary before trial to