The statement of defence, after usual denial of the plaintiff's allegations, pleads the Statute of Frauds (paragraph 2); says (paragraph 3) goods not of good quality or workmanship; (paragraph 4) not equal to sample agreed on by parties; (paragraph 5) not fit for purpose of defendants' business, for which plaintiff well knew they were intended.

On 23rd instant plaintiff demanded particulars in writing of paragraph 3 as to want of good quality and workmanship; paragraph 4, respects in which the goods manufactured by the plaintiff were not equal to sample; and paragraph 5, of respects in which said goods were not fit for purpose of defendants' business.

The cause is not at issue yet.

The motion is supported only by affidavit of plaintiff's solicitor that he believes "plaintiff cannot safely proceed to trial without delivery by defendants of the particulars demanded."

In Uda v. Algoma Central R. W. Co., 1 O. W. R. 246, Meredith, C.J., relied in part on the fact that there was no affidavit from the plaintiff that the nature of the defence intended to be set up was not known to him.

What necessity there can be for the particulars for the purposes of reply is not apparent, nor does the affidavit state any. It may be assumed that there was a certain amount of correspondence leading up to the alleged documents, and subsequent letters stating refusal of defendants to accept, and their reasons for such refusal.

However that may be, there is yet plenty of time to examine some officer or servant of defendant company, who will be bound to inform himself fully of the facts relied on by way of defence.

Until this has been done the motion is, in my view, premature: see Becker v. Dedrick, 2 O. W. R. 786; Quebec Bank v. Phœnix Ins. Co., 3 O. W. R. 603; and cases referred to in these decisions.

If after discovery has been had the plaintiff is still of opinion that he cannot safely proceed to trial, he can renew this motion.

At present I think that it cannot succeed, and should be dismissed with costs to the defendants in the cause.