

ments there in real estate, and especially at Fort George; that these lands had become valuable; and that for several months the plaintiffs had been selling and offering for sale certain of the lots into which their lands had been subdivided. Paragraph 5: "For the purpose of attracting the attention of purchasers . . . the plaintiffs have extensively advertised . . . in newspapers throughout Canada, including the province of Ontario and the city of Toronto, *but the plaintiffs did not so advertise in the newspapers published by the defendants.*" The words italicised were those objected to. "6. The defendants have recently published . . . a series of sensational articles upon financial topics, partly for the purpose of increasing the circulation of the said newspaper, and partly for the purpose of blackmailing persons requiring advertising in connection with commercial investments, and for the purpose of compelling such persons to advertise in the defendants' newspaper." "7. The publication of the said series of articles . . . is part of a fraudulent blackmailing plan adopted by the defendants for the purpose aforesaid, and, in pursuance of and as part of the said plan, the defendants have so dealt with their property and assets as to prevent any person recovering a judgment against them for damages from realising thereon." Held, that these parts of the statement of claim could not be supported: *Flynn v. Industrial Exhibition Association of Toronto*, 6 O.L.R. 635; *Gloster v. Toronto Electric Light Co.*, 4 O.W.R. 532, and cases cited. The facts set out, even if true and capable of being laid before the jury, did not come within Con. Rule 268, not being "material facts upon which the party pleading relies;" and, in order to secure a fair trial, they should be struck out: *Canavan v. Harris*, 8 O.W.R. 325.—The 8th paragraph set out in extenso the alleged defamatory and injurious articles; and the 9th paragraph began: "Notice of action was duly served upon the defendants in respect of the aforesaid libels, but they have refused to retract the same, and have persisted in their false and malicious libels." This was not objected to; but, by this 9th paragraph, the plaintiffs proceeded to set out the publication of a libel on or about the 3rd July, 1910, in which the previous statements were repeated, and the plaintiffs were in effect invited to bring this action. No notice had been given as to this last publication. Held, following *Obernier v. Robertson*, 14 P.R. 553, that all reference to the publication of the 3rd July should be struck out. *Gurney Foundry Co. v. Emmett*, 7 O.L.R. 604, distinguished.—By the 10th paragraph the plaintiffs alleged that "the defendants were well aware that the said articles were false, and