ance of the suit unnecessary, and the Court may take that into consideration in dealing with the costs of the suit." *Ib.* p. 463.

In *Pearce* v. *Watts*, L.R. 20 Eq. 492, Sir George Jessel (whose decision as to costs, in *Bush* v. *Trowbridge*, L.R. 19 Eq. 291, had been affirmed in appeal by the Lords Justices) dealt again with the same question in his usual incisive style: "It is urged," he said, "that the defendant might have demurred, and not having done so, is only entitled to such costs as he would have had in case he had demurred, and not to have the costs of the whole proceedings paid by the plaintiff. It seems to me, however, that the same principles ought to apply to a suit in this Court as to an action at common law. In an action at common law, the defendant may object to the form of the declaration, although all the witnesses are summoned, and if the objection be sustained, may sign judgment, and have the whole of the costs. This ought to be the rule here, and, in fact, was held to be the rule by the Lords Justices in the recent case of *Bush* v. *Trowbridge*." We are disposed to think that the Master of the Rolls here extends the principle of the decision of the case in appeal beyond its legitimate scope. The Lords Justices did not lay down a hard-and-fast rule, such as is indicated by Sir George Jessel. The true scope of the decision is, we think, given by the Chancellor, in the late case of *Gildersleeve* v. *Cowan*, 25 Gr. 460, where he is thus reported: "The case before the Lords Justices is an authority that it is not in every case where a bill may be demurrable and a party answers, and the bill is dismissed at the hearing, it must be dismissed without costs; but, on the other hand, it is not an authority that in a simple case where the bill is clearly demurrable, and a defendant answers, and the bill is dismissed at the hearing, it will not be dismissed without costs."

It is worthy of observation that the same points as are involved in *Bush* v. *Trowbridge* and *Gildersleeve* v. *Cowan*, were fully argued and elaborately adjudicated upon in the early case of *Simpson* v. *Grant*, 5 Gr. 273, which is not cited in the later decisions in the Ontario Court of Chancery. There the majority of the Judges lay it down that the authorities are all explicable on this principle, that parties are not permitted to adopt a tedious and expensive mode of procedure when an expeditious and inexpensive one is open, and would be equally effective. It is there said that nothing in the authorities warrants the proposition that when a bill presents numerous issues of law and fact, the defendant contesting the issues of law is bound, at the peril of costs, to have these issues disposed of on demurrer; but that all the cases tend to shew that, in a plain case, when all the questions can be effectually disposed of on demurrer, a defendant is bound to adopt that course, at the peril of costs. This case is worthy of being studied, and of being compared with the decision in *Bush* v. *Trowbridge*; and we venture to assert that it will be found that the principles enunciated in both cases are identical.

NOTES OF CASES.

IN THE ONTARIO COURTS, PUBLISHED IN ADVANCE, BY ORDER OF THE LAW SOCIETY.

COURT OF APPEAL.

From Q. B.] [March 10.

PARSONS v. THE CITIZEN'S INSURANCE COMPANY.

Insurance—Statutory conditions—R. S. O. c. 162—Powers of Provincial Legislature.

The policy sued on, which was issued by the defendants who were incorporated since