

Since the Judicature Act, the Consolidated Rules have perpetuated such practice; the present Rule 141 declaring that "pleadings shall contain a concise statement of the material facts upon which the party pleading relies."

The statement of claim in the present case not having complied with this Rule, the defendant demanded particulars of the acts relied upon; and, this demand not having been complied with, he moved before the Master in Chambers for an order directing that such particulars be furnished and for an extension of the time wherein to file a statement of defence. On that application the Master made the order complained of, namely: "that the defendant do deliver a statement of defence on or before the 11th day of February, 1921, and that such defence may contain a general denial of the charges of cruelty, adultery, infidelity, and misconduct," and "in the alternative that the defendant file an affidavit on or before the said last mentioned date in support of the motion for particulars."

Rule 142 declares that "a defendant shall not deny generally the allegations contained in the statement of claim;" and therefore it was not competent for the Master to permit the defendant in his statement of defence to make a general denial of the charges in question; and the order granting such leave should be set aside.

As to the other provision in the order that, in the alternative, the defendant might file an affidavit in support of the motion for particulars, the learned Chief Justice was unable to understand what useful purpose would be served by granting permission to the defendant to file an affidavit in support of the motion for particulars after the Master, instead of retaining the motion and not seeing fit to order particulars, had finally disposed of it. The whole order should, therefore, be set aside, and in lieu thereof it should be ordered that, within one month, the plaintiff should file and deliver particulars of the acts relied upon, and that such particulars be deemed to be incorporated in and to form part of the plaintiff's statement of claim, or, at the plaintiff's option, that the statement of claim filed be set aside with leave to the plaintiff to file a new statement of claim containing the particulars of the acts relied upon—the defendant to file his statement of defence within 10 days from the delivery of the statement of claim or particulars.