Court action, the papers should not be intituled in the High Court of Justice, but in the County Court.

Masten for the plaintiff.
C. W. Kerr for the defendant.

FERGUSON, J.]

DELAP *v.* CHARLEBOIS.

Security for costs—Nominal plaintiff—Amount of security.

An action was begun by D. as plaintiff, suing on behalf of himself and all other shareholders in the defendant company, to set aside a judgment obtained by the defendant C. against the company. B., who lived out of the jurisdiction, amended the writ of summons before serving it by adding A., another shareholder, as a plaintiff. Upon a motion by C. for security for costs, A. was examined, and it appeared from his examination that he had never intended bringing any action himself; that he did not know the nature or the position of the action, and that he did not know D. He had, however, written a formal letter authorizing D.'s solicitors to have him added as a plaintiff. It also appeared that A. had no property except some household furniture of trifling value.

Held, that A. was merely a nominal plaintiff, and that C. was entitled to an order for security for costs.

There being reason to suppose that the action would be an expensive one, the plaintiffs were ordered to give security in the sum of $1,000.

Arnoldi, Q.C., for the plaintiffs.
W. M. Douglas for the defendant Charlebois.

MASTER IN CHAMBERS.] [Nov. 8.

MCLENNAN *v.* FOURNIER.

Appearance—Default of—Noting pleadings closed—Rule 393.

Where defendants do not appear, an order may be made, by analogy to Rule 393, directing the proper officer to note the pleadings closed; but without such an order the officer has no power to do so. *Morse* v. *Lambe*, *ante* p. 408, explained.

E. F. Blake for the plaintiff.
J. A. McIntosh for the defendants.

Court of Appeal.]

HOWLAND *v.* DOMINION BANK.

Writ of summons—Extending time for service—Rule 238—Ex parte order—Rescission of—Rule 536—Jurisdiction of Master in Chambers—"Good reason"—Statute of Limitations.

Where an order has been made on the *ex parte* application of the plaintiff, under Rule 238 *(a)*, extending the time for service of the writ of summons, it is open to the defendant to move against it within the time or extended time prescribed by Rule 536, and to show, if he can, that there was no good reason for making it, even though the result of setting it aside may be that the action will be defeated altogether by the operation of the Statute of Limitations.

The Master in Chambers, where he has made such an order, has jurisdiction under Rule 536 to reconsider and rescind it.

The reason offered by the plaintiffs for an extension of the time for service of the writ was that until they should ascertain, by the result of the reference in another pending proceeding, that there had been a fund in the hands of one of the defendants in respect of which it would be worth while to prosecute this action it would be advisable to delay the service of the writ, as, in the event of their being no fund, this action would be useless. There had been delay in prosecuting the reference in the other proceeding, the plaintiffs having the conduct of it. The Master in Chambers, upon the application of the defendants, set aside his own *ex parte* order, extending the time for service of the writ, and his decision was affirmed by a judge in chambers and a Divisional Court.

Held, that the three tribunals could not be said to have been wrong in holding that no good reason was shown for extending the time

Arnoldi, Q.C., for the plaintiffs.
McMichael, Q.C., for the defendants.

BOYD, C.] [Nov. 14.

UHRIG *v.* UHRIG.

Judgment debtor—Examination of—Refusal to be sworn.

Where a judgment debtor attends for examination, but refuses to be sworn, he should be ordered to attend and take the oath and submit to be examined at his own expense; if he makes default, process of contempt may issue on further proof.

E. F. Blake for the plaintiff.