cluded: Con. Rule 42 (16); although, under the Rule in England from which ours was taken, a Master has such power; and so the application ought to be made at Chambers there.

But the practice here seems to have been, invariably, to hear the motion in Court: a practice doubtless arising on the ruling of Street, J., in the case of Knapp v. Carley, 7 O.L.R. 409.

. . .

That practice ought not to be disturbed by me now, whatever views I might have as to it. Changes are frequently made in the Consolidated Rules; and, if a change in this respect be desirable, it can easily be effected. I treat the application under Con. Rule 261 as a Court motion.

But I am inclined to think that effect ought not to be given to it in the way the parties upon the argument of the motion desired, that is, as a point of law arising on the pleadings; that, more regularly, the case should come under the provisions of Rule 259, which provides for a demurrer in substance, while abolishing a demurrer in name.

The statement of claim was objectionable, and might properly, I think, have been found fault with under Rule 298. The practice, which has done away with great precision, and has allowed much laxity, in pleading, was not intended to permit pleadings to be used for the purpose of disguising the nature of a claim or a defence, nor even for giving as little information as possible regarding it. As long as pleadings are required, they should be made as useful as possible in disclosing the substance of the claim or defence; and, when they are used for any other purpose, there ought to be no hesitation in having them put to their proper uses at the cost of him who misuses them, or, in the alternative, struck out.

But Mr. Smith now says that the claim is for the amount of a bet on a parliamentary election, won by the plaintiff from the defendant; and upon that statement the argument proceeded, and it was argued that the motion is to be dealt with as a point of law properly raised; that is, whether such a claim can be enforced in the Courts of this Province.

Early in my professional experience, the very question was raised before and considered by a careful and able County Court Judge, who decided that such a bet was invalid at common law; and I have always understod the law to be, and to be administered in this Province, in accordance with such ruling: a view of the law which, apparently, was accepted as accurate by the Supreme Court of Canada in deciding the case of Walsh v. Trebilcock, 23 S.C.R. 279.