ment was dispensed with (sec. 82), the note was dishonoured (sec. 83), and the endorser was bound.

The plaintiffs were therefore entitled to judgment in respect of the notes payable in 1906 and 1908, but failed in respect of the note payable in 1907.

If, after taking into account the payments made and computing interest, it should appear that the amount which was due on the day (before action) when the defendant tendered $450 in respect of the notes upon which the plaintiffs succeed, was less than $450, there ought to be no order as to costs; but, if that amount was more than $450, there ought to be judgment for the amount now due with costs.

MIDDLETON, J., IN CHAMBERS.   JANUARY 29TH, 1920.

LEONARD v. WHARTON.

Pleading—Statement of Claim—Libel—Amendment—Substitution of New Statement of Claim after Order for New Trial—Effect of Order—Addition of Causes of Action—Embarrassment—Direction for Speedy Trial.

Appeal by the defendants from an order of the Master in Chambers, made upon the application of the plaintiffs, permitting the plaintiffs to amend by substituting for the statement of claim upon the files a new pleading, directing the defendants to plead thereto within 10 days, and giving the plaintiffs leave to set the action down for trial at the current jury sittings in Toronto within 2 days after delivery of the amended statement of defence. The order was made after the case had been tried and a new trial directed by a Divisional Court of the Appellate Division: see Leonard v. Wharton (1919), ante 127.

A. C. McMaster, for the defendants.
J. P. MacGregor, for the plaintiffs.

MIDDLETON, J., in a written judgment, said, after stating the facts, that the amendment was practically a complete abandonment of the original statement of claim and the substituting for it of a document of 21 pages, quite departing from Bullen and Leake's or any other familiar common law precedents of pleading. In substance, it was an attempt to rehabilitate three causes of action which the defendants thought had been finally disposed