

MEREDITH, J.

NOVEMBER 18TH, 1903.

CHAMBERS.

CONFEDERATION LIFE ASSOCIATION v. MOORE.

Pleading—Statement of Claim—Irregularity—Delivery after Notification that Defendant Does not Require—Defence and Counterclaim.

Appeal by defendant from order of Master in Chambers (ante 1087) dismissing defendant's motion to set aside the statement of claim for irregularity.

W. E. Middleton, for defendant.

C. P. Smith, for plaintiffs.

MEREDITH, J.—The Rules are to be so construed as to give effect, if possible, to all of them, and to bring all of their provisions into harmony.

That can substantially be done in this case, though there may be an apparent conflict between the provision giving a defendant power to deliver a statement of defence—treating the indorsement upon the writ as the plaintiff's claim—and the provision allowing a plaintiff three months after appearance to deliver a statement of claim. The harmony is made if the indorsement upon the writ becomes and is the plaintiffs' statement of claim. The Rule allowing the three months cannot give a right to deliver a second statement of claim.

That seems to me a fairly satisfactory solution of the main question involved in this motion, and to work out a convenient and satisfactory practice. The plaintiff cannot complain for, when making his indorsement, he does it with a knowledge that the defendant may treat it as the statement of claim, and it can be framed accordingly, and, after the delivery of the statement of defence, a plaintiff has such wide power of amendment that he can then frame his statement of claim, without any order or leave, in the form it would have taken if the defendant had not elected to treat the indorsement upon the writ as a statement of claim.

That the defendant may thus reduce the usual time allowed to a plaintiff to deliver his statement of claim is not an evil—anything that fairly brings the parties the quicker to