were peculiar, there did not appear to be any definite authority as to the precise period at which Order XIV. ceased to be applicable. This question has since been decided. In an action (*uuu*) on a writ of summons specially indorsed, to recover £129, the plaintiff moved, after the statement of defence had been delivered, for summary judgment, on the ground that there was no defence to the demand. Field, J., thought that "under the terms of the Order and according to the practice of the Court, such a judgment should not be allowed to be taken after a statement of defence had been delivered." The plaintiff appealed, and asked that Field, J.'s decision be set aside, unless the defendant paid the amount demanded into court. The Divisional Court took time to ascertain by conference with the judges what was the practice of the courts. Pollock, B., who delivered the judgment of the court, holding that the plaintiff was not necessarily too late in applying, and that his motion should be heard before the judge in Chambers on the merits, said, in part: "No doubt the intention of the rule is that the plaintiff may and ought, unless special circumstances exist, to make his application as soon as the writ of summons is issued, and at some time before the statement of defence is delivered. But we think that there may be peculiar cases, as cases in which there has been improper conduct on the part of the defendant, and to which that restriction in the rule may not apply. But there may be cases in which the defendant may have advanced the delivery of his statement of defence with the very object of defeating the application for judgment. Again, there may be cases in which the statement of defence itself may shew that there is no real defence, and that it is a "sham" defence, so that it is a proper case for the application of the order. It appears to us, therefore, that the proper view is that, though the primary intention of the rule may be that the application should be made within a reasonable time, and in general that will be before the statement of defence has been delivered, yet that that is not a compulsory or absolute restriction, and that it does not absolutely preclude the plaintiff from making the application nor deprive the judge of his discretionary power to allow it."

In conclusion, there remains to be considered the question whether there can be renewed an application for summary judg-

(*uuu*) *McLardy* v. *Slateum*, 6 T.L.R. 185.