

in this case reads: "I have a good defence to this action." That this is not a compliance with the Rule is conclusively decided by *Robinson v. Morris* (1908), 15 O.L.R. 649, in the King's Bench Division. The same point was decided in the Appellate Division by a Court of which I was a member—there, indeed, under the circumstances of the particular case, we gave the defendant leave to file a better affidavit *nunc pro tunc*.

Whatever the merits of the proposed defence may be, I do not go into them—they may be developed fully in an application which I reserve leave to the defendant to make substantively for leave to file a proper affidavit, etc.

The appeal will be dismissed with costs—the plaintiff undertakes not to proceed on his judgment until the 11th December to enable such proposed motion to be made.

The attention of the defendant having been called to the defect of merit as well as of form, she must expect that any defence she may set up will be closely scrutinised and rigidly dealt with.

The Rule being specific that the appearance shall not be received without an affidavit, and that the affidavit should contain a statement that the defendant "has a good defence upon the merits," officers should not receive an appearance unless the affidavit does contain that statement. It is not to be expected that they will pass upon the sufficiency of the facts alleged to constitute a valid defence: but they may and should see that the affidavit is not defective in form.