circumstantial evidence leading to that conclusion. *Fry* v. *Knox*, 8 O. R. 648, declared to be overruled.

Gibbons, for plaintiff.
Meredith, for J. S. Mackay.
Mulhern, for J. Sutherland.

PRACTICE.

Wilson, C. J.] [Oct. 12.

WALLER v. CLARIS.

Notice of motion—Irregularity—Costs.

Where the defendant's solicitor was served with a short notice of motion which, on the return, was admitted to be defective,

Held, that the defendant was not entitled to the costs of counsel attending on the motion merely to show that the notice was irregular.

Hoyles, for the plaintiff.
F. E. Hodgins, for the defendant.

Mr. Dalton, Q.C.] [Oct. 12.

PEEL v. WHITE.

Limited defence—Appearance—Statement of claim—Rule 68, O. J. A.

The defendant entered an appearance under Rule 68, O. J. A., limiting his defence to one item in the particulars endorsed on the writ of summons.

Held, that after such appearance a statement of claim was unnecessary, and a judgment signed upon a statement of claim for default of a statement of defence was set aside with costs.

Hoyles, for the defendant.
McPhillips, for the plaintiff,

Boyd, C.] [October 14.

ORPEN v. KERR.

Examination—Production of documents—Special examiner—Rule 285, O. J. A.—G. O. Chy. 147.

The powers of the special examiner under G. O. Chy. 147, as to directing the production of documents, extend to examinations under Rule 285, O. J. A.

Upon an examination of a party under Rule 285, at a stage of the action earlier than an examination will be ordered as of course, only material documents should be produced—such as would be produced in the ordinary course at a later stage.

A. H. Meyers, for the plaintiff.
C. H. Ritchie, for the defendant.

Boyd, C.] [Oct. 14.

ROGERS v. LOOS.

Retaining money in Court—Defence—Security for costs.

The statement of defence set up that the assault complained of was in self-defence, and, as an alternative defence, that, while the defendant does not admit his liability for damages, he brings into Court $150 and says that the same is sufficient, etc.

Held, affirming the order of KINGSMILL, local judge of Bruce, that the money paid into Court under this defence could not be retained there to answer the defendant's costs, if he succeeded, unless a proper case were made for ordering security for costs.

W. H. P. Clement, for the defendant.
Hoyles, for the plaintiff.

Boyd, C.] [Oct. 26.

SERVOS v. SERVOS.

Changing place of trial—Preponderance of convenience.

In an action by a husband against his wife to enforce a charge on land, the cause of action arose at Hamilton where also the parties and their respective solicitors and all the witnesses resided; but the plaintiff proposed that the action should be tried at Toronto. The increase in expenses of a trial at Toronto over one at Hamilton was estimated by the defendant at between $50 and $75, and by the plaintiff at about $30.

Held, that there was an exceeding preponderance of convenience in favour of Hamilton, and it was ordered that the place of trial should be changed unless the plaintiff at once paid into the Court $40 to meet the defendant's additional expense.

Shepley, for the defendant.
Holman, for the plaintiff.