more extensive than it formerly was in the Court of Chancery. However this might have been at the time of the delivery of the judgment in that case, it is now reasonably clear under the rules in force in Ontario (Rules 439-462, as amended by rules recently passed and coming into effect on the 1st of September, 1903, Rules 1250-1251) that the right of discovery is, in some respects, at least wider than the right under the former practice of the Court of Chancery, a notable instance being that a party to an action of tort has as full a right to discovery, both by way of production of documents, and by way of oral examination of his adversary, as in the case of an action on a contract or a purely equitable action to enforce a trust. This was a right which did not exist under the old equity practice.

Some few restrictions upon the apparently unlimited right of discovery, given by the Judicature Act and the Rules derived from the formerly existing doctrine of the Court of Chancery still survive in our law. These will be noticed subsequently in dealing with recent cases under the various headings of privilege from discovery.

The law and practice of discovery in the Province of Ontario, while descended from, and based upon the principles and practice of the English Court of Chancery, with a few principles introduced from the practice of common law at the time of the enactment of the Common Law Procedure Act and Administration of Justice Act, following the passing of similar Acts in England, has been so far defined and regulated by statute and rules that, so far as the actual practice is concerned, it might almost be said to be completely controlled thereby.

An English practitioner, familiar only with the practice as at present existing in England under the present Order 31, upon coming to practice in this Province would find that while his knowledge of the general principles, applicable to the law of discovery, would be fully available in determining such question, for instance, as the right to refuse discovery in an action for penalties, the grounds for, or the extent of the privilege based upon legal professional communication, would, nevertheless, find that the manner in which, as a matter of practice, his discovery should be obtained, nay more, the cases and circumstances in which he had a right to discovery were very different from what was in vogue under the practice to which he had been accustomed. It would very