

appearance, and substitute a special form of writ, calling upon the defendant, where the writ is especially endorsed to at once file an affidavit shewing the nature of his defence. The plaintiff is then given the option of treating the affidavit so filed as constituting the statement of defence to his claim endorsed upon the writ and of entering the action for trial without formal pleadings. Three weeks' notice of trial is required in this case, so as to afford opportunity for discovery and preparation for trial. The plaintiff may, at his election, cross-examine the defendant upon the affidavit, and if the plaintiff think fit he may move for judgment upon such cross-examination. He thus makes his motion for judgment after he has an opportunity of considering whether it is likely to succeed.

"Wherever a writ is specially endorsed, the special endorsement will stand as the statement of claim, and the defendant must file his defence in the usual time after appearance.

"While these provisions, it is hoped, will be found sufficient to prevent vexatious defences, it has been difficult to devise any entirely satisfactory remedy for vexatious actions. The temptation to bring an action without sufficient cause is not so great as the temptation to defend without reason. Under certain statutory provisions, security for costs may be ordered in classes of actions in which unfounded suits are more prevalent, *e.g.*, libel actions, and actions against public officers.

"The classes of cases in which security can be ordered has been somewhat enlarged. Where, on the plaintiff's examination, his case appears to be frivolous, power is given to order security; and a similar provision has been made where a worthless plaintiff has been chosen to prosecute a class action really in the interest of others. He is not a nominal plaintiff under the present decisions, as he is asserting his own right as a member of the class. Farther than as suggested in the rules relating to security it is not safe to go.

"Another change is the abolition of the order to produce. An affidavit on production is directed to be filed ten days after the time for defence. For many years an order to examine was