

the judges and the Clerk of the Crown and Pleas to the Inspector of Legal Offices.

"In addition to many minor changes embodied in the revision, in the interest of simplicity and uniformity some changes of importance are suggested; and to these attention is respectfully drawn.

"One of the greatest problems in the framing of rules of practice is to devise a system which will at the same time afford a simple and speedy mode of enforcing admitted or undisputed rights, and yet be sufficiently elaborate and elastic to be adequate to the working out of important disputes and the adjustment of intricate and complicated matters. To this end it is essential that there should be at the threshold some means of separating cases in which there is a real dispute from cases in which there is no real dispute, but an attempt to abuse the practice by the setting up of some pretended defence. At one time our courts were congested with actions upon notes, bills of exchange, and mercantile accounts, where there was no real question as to the liability of the defendants, but which were defended, and had to be taken to trial before judgment could be obtained. At that time, with a population of less than one-tenth of that at the present day, the Assize lists were longer than now.

Examinations under the Common Law Procedure Act, which enable a defence admittedly untrue to be struck out, afforded a partial remedy. Since the Judicature Act a motion for judgment after appearance, which calls upon the defendant to disclose his defence upon oath, has proved yet more efficacious; but even in this there is much waste and delay. The decisions have established the plainly just principle that summary judgment can only be granted where there is no issue to try; hence, judgment cannot be granted where there is a conflict of evidence, and the result of the motion depends solely upon the defendant's affidavit. Where the defendant makes an affidavit disclosing any defence there is no doubt as to the result of the motion, and it becomes a purely formal matter.

"These rules provide for the elimination of the plaintiff's affidavit and of the formal notice of motion to be served after