

THE JUDICATURE ORDINANCE, 1879.
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No. 28.—1879.

17th December.

AN ORDINANCE for the constitution of one Supreme Court, and for other purposes relating to the better Administration of Justice.

(L.S.) HENRY T. IRVING

22nd December, 1879.

WHEREAS it is expedient to constitute one Supreme Court, and to make provision for the better administration of justice; Be it enacted by His Excellency the Governor, with the advice and consent of the Legislative Council, as follows:—

1. This Ordinance may be cited for all purposes as *Short title.*
“The Judicature Ordinance, 1879.”

VOL. IV.

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Commence-
ment.

2. This Ordinance, except any provision thereof which is declared to take effect on the passing thereof, shall not come into operation until the twentieth day of March, one thousand eight hundred and eighty, which day is in this Ordinance referred to as the commencement of this Ordinance.

Interpreta-
tion.

3. In this Ordinance,

“The Supreme Court” means the Supreme Court constituted by this Ordinance :

“Rules of Court” includes forms :

“Cause” includes any action, suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by the Crown :

“Action” means a civil proceeding commenced by writ, or in such other manner as may be prescribed by Rules of Court; and does not include a criminal proceeding by the Crown :

“Plaintiff” includes every person asking any relief (otherwise than by way of counter claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise :

“Petitioner” includes every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant :

“Defendant” includes every person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceeding :

“Party” includes every person served with notice of, or attending, any proceeding, although not named on the record :

“Matter” includes every proceeding in the Court not in a Cause :

“Pleading” includes any petition or summons, and also includes the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant :

“Judgment” includes decree :

“Order” includes rule :

“Oath” includes solemn affirmation :

“Pension” includes retirement and superannuation allowance :

“Existing” means existing at the time appointed for the commencement of this Ordinance :

“Statutory provision” includes any provision contained in this Ordinance or in the rules in the schedule to this Ordinance, or in any Rules of Court made pursuant to this Ordinance and approved by the Governor and Legislative Council and not disallowed by Her Majesty :

“Suit” and “Action” are synonymous :

“Marshal” means the Marshal of the Island of Trinidad :

“Deputy-Marshal” means the Deputy-Marshal of San Fernando.

4. From and after the commencement of this Ordinance there shall be one Supreme Court in this Colony, which shall be a Superior Court of Record.

Constitution
of one
Supreme
Court.

5. The Supreme Court shall consist of not more than three and not less than two Judges, of whom one shall be called the Chief Justice of Trinidad, and shall be the President of the Court, and the other or others shall be called the Puisne Judge or Puisne Judges of Trinidad, and shall, if more than one, rank according to the priority of their respective appointments. The present Chief Justice and the present first and second Puisne Judges of Trinidad shall be the first Judges of the

Judges of the
Supreme
Court.

Supreme Court, and shall as to tenure of office, rank, title, salary, pension, and all other privileges, and as to all qualifications and disqualifications remain in the same condition as if this Ordinance had not been passed. Every future Judge of the Supreme Court shall be appointed by letters patent under the public Seal of the Colony by the Governor, in accordance with such instructions as he may receive through one of Her Majesty's Principal Secretaries of State, and shall hold his office during Her Majesty's pleasure subject to any conditions contained in any regulations made by or under the authority of Her Majesty for Her Majesty's Colonial Service, and shall receive such salary as the Governor, with the sanction of the Legislative Council, appoints. The acceptance by any Judge of the Supreme Court of any other office or place of profit or emolument not authorised by law shall be and be deemed *de facto* an avoidance of his office of Judge, and his salary as Judge shall cease accordingly from the time of his acceptance of such other office or place.

The said Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any Judge.

Whenever the office of any Judge of the Supreme Court is vacant, and whenever any Judge is absent from the Colony, or is by reason of illness, interest in any cause or matter, or for any other reason, incapable of acting, the Governor, if he thinks fit, may in the name of Her Majesty by Letters Patent under the Public Seal of the Colony appoint some person being a Barrister-at-Law of five years standing at least to act in the place of the Judge whose office is vacant, or who is incapable of acting.

Full Court.

6. Any two Judges of the Supreme Court shall be sufficient to constitute a full Court. At any sitting of a full Court it shall be the duty of every Judge who is in the Colony and not prevented by illness or other reasonable cause to attend, but the absence of a third Judge shall not in any case affect the validity of any proceeding.

Where a full Court is composed of the Chief Justice or Acting Chief Justice and a Puisne Judge, and such Judges differ in opinion, the opinion of the Chief Justice

or Acting Chief Justice shall prevail: Provided that in all cases where two Judges constituting a full Court differ in opinion such full Court shall, if there be three Judges of the Supreme Court, not give judgment, and the cause or matter shall be reheard and determined by such three Judges, unless at any time it appears to a full Court composed of the Chief Justice or Acting Chief Justice and a Puisne Judge that it is impracticable that the cause or matter should be so reheard within a reasonable time, in which case the cause or matter shall be heard and determined and judgment therein given by a full Court composed as last aforesaid.

7. The Court shall have and use as occasion requires a Seal for all writs and processes other than those issued in the summary jurisdiction conferred upon the Court by this Ordinance. Such seal shall bear an impression of the royal arms within an exergue or label surrounding the same, with the inscription, "Supreme Court of Trinidad." Seals of the Court.

The Court shall also have and use as occasion requires special Seals for writs and other processes issued in the summary jurisdiction. Such last-mentioned seals shall bear an impression of the royal arms within an exergue or label surrounding the same with the inscription "Supreme Court of Trinidad, Summary Jurisdiction, Port of Spain," or "Supreme Court of Trinidad, Summary Jurisdiction, San Fernando," as the case may be.

8. There shall be a Registrar of the Supreme Court, who shall have the custody of the seals of the Court, except the seal for use in the summary jurisdiction at San Fernando, and all records, documents and papers thereof, and shall perform such duties as may be prescribed by rules of court in force under this Ordinance, but the duties so prescribed shall be the same as or analogous to the duties performed by the Registrar of the Courts before the commencement of this Ordinance, and subject to such rules of Court the Registrar of the Supreme Court shall perform as nearly as may be the same duties as before the commencement of this Ordinance were performed by the Registrar of the Courts. Registrar of the Court.

The Registrar of the Supreme Court shall also have

powers and discharge duties corresponding to the powers and duties of the Queen's Coroner and Attorney and Master of the Crown Office attached to the Queen's Bench Division of the High Court of Justice in England so far as such powers or duties relate to any judicial proceedings.

Sub-
Registrar.

9. There shall be a Sub-Registrar of the Supreme Court, who shall have the custody of the seal of the Court for use in the summary jurisdiction at San Fernando, and perform such duties in reference to proceedings at San Fernando as may be prescribed by rules of court in force under this Ordinance, but the duties so prescribed shall be analogous to the duties performed in reference to other proceedings by the Registrar of the Supreme Court.

Appointment
and salaries
of Registrar
and Sub-
Registrar.

10. The Registrar and Sub-Registrar of the Supreme Court shall be appointed by Her Majesty by letters patent under the Public Seal of the Colony, and shall hold office during Her Majesty's pleasure, and subject to any conditions contained in any regulations made by or under the authority of Her Majesty for Her Majesty's Colonial Service, and shall receive such salaries as the Governor, with the sanction of the Legislative Council, appoints.

Common
powers of
Registrars.

11. Any act done or document signed by either of them, the Registrar or the Sub-Registrar of the Supreme Court shall not be liable to objection on the ground that it ought to be done or signed by the other of them.

General
jurisdiction of
the Supreme
Court.

12. Subject to the exception contained in this section, all such jurisdiction as at the time of the commencement of this Ordinance is vested in the High Court of Justice in England, shall from and after such commencement be vested in the Supreme Court.

But the jurisdiction of the said High Court as a Court of Admiralty and as a Court for Divorce and Matrimonial Causes shall be excepted, and no such jurisdiction shall be vested in the Supreme Court.

13. All such jurisdiction in relation to the custody of the persons and estates of idiots, lunatics and persons of unsound mind as is in England vested in the Lord Chancellor, or other person or persons intrusted by Her Majesty with the care and commitment of such persons and estates shall be vested in the Supreme Court.

Jurisdiction
of the
Supreme
Court in
lunacy.

14. From and after the commencement of this Ordinance the jurisdiction of the Supreme Civil Court, whether as a Court of Law, Equity, Bankruptcy or otherwise, and of the Supreme Criminal Court and of the Complaint Court, shall cease and determine.

Abolition of
certain
Courts.

15. All jurisdiction, which by or by virtue of any Order in Council, Ordinance, or other enactment continuing in force after the commencement of this Ordinance is vested in any Court whose jurisdiction ceases upon the commencement of this Ordinance, shall from and after the commencement of this Ordinance, be transferred to and vested in the Supreme Court; and the jurisdiction so transferred shall include the jurisdiction which at the commencement of this Ordinance was vested in or capable of being exercised by all or any one or more of the Judges of any such court sitting in Court or chambers or elsewhere when acting as Judges or a Judge in pursuance of any Order in Council, Ordinance or other enactment, and all powers given to any such court, or to any such Judges or Judge by any Order in Council or Ordinance or other enactment, and also all ministerial powers, duties and authorities incident to any and every part of the jurisdiction so transferred.

Statutory
jurisdiction of
Supreme
Court.

16. The jurisdiction by this Ordinance vested in the Supreme Court shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance or other statutory provision.

Mode of
exercise of
jurisdiction of
Supreme
Court.

17. In every civil cause or matter commenced in the Supreme Court, law and equity shall be administered according to the rules following:—

Law and
equity to be
concurrently
administered.

(1.) If any plaintiff or petitioner claims to be entitled

to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the Supreme Court and every Judge thereof shall give to such plaintiff or petitioner such and the same relief as ought to be given by the High Court of Justice in England in an action or proceeding for the same or the like purpose.

- (2.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the Supreme Court and every Judge thereof shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the High Court of Justice in England ought to give if the same or the like matters were relied on by way of defence in any action or proceeding instituted in that Court for the same or the like purpose.
- (3.) The Supreme Court and every Judge thereof shall also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant properly claims by his pleading, and as the Supreme Court or any Judge thereof might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the

original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to any rule of court or any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim, as if he had been duly sued in the ordinary way by such defendant.

- (4.) The Supreme Court, and every Judge thereof, shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties, and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would recognise and take notice of the same in any action or proceeding duly instituted therein.
- (5.) No cause or proceeding at any time pending in the Supreme Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, if this Ordinance had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always, that nothing in this Ordinance contained shall disable the said Court from directing a stay of proceedings in any cause or matter pending before it if it thinks fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, if this Ordinance had not passed, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order, contrary to which all or any part of the proceed-

ings in such cause or matter may have been taken, shall be at liberty to apply to the said Court, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as may be just.

(6.) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Ordinance, the Supreme Court and every Judge thereof shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities existing by the common law or by Spanish law, or by any custom, or created by any Order in Council, Ordinance or other statute, in the same manner as the same would have been recognised and given effect to if this Ordinance had not passed by any of the courts whose jurisdiction ceases upon the commencement of this Ordinance.

(7.) The Supreme Court, in the exercise of the jurisdiction vested in it by this Ordinance, in every cause or matter pending before it, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to such Court seems just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

Rules of law
upon certain
points.

18. And whereas it is expedient to amend and declare the law to be hereafter administered as to the matters next hereinafter mentioned: Be it enacted as follows:

Administra-
tion of assets

(1.) In the administration by the Court of the assets

of any person who may die after the commencement of this Ordinance, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding up of any company under the Companies Ordinance, 1869, whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person, or out of the assets of any such company, may come in under the decree or order for the administration of such estate, or under the winding up of such company, and make such claims against the same as they may respectively be entitled to by virtue of this Ordinance.

- (2.) No claim of a cestui que trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. Statutes of Limitation inapplicable to express trusts.
- (3.) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such estate. Equitable waste.
- (4.) There shall not, after the commencement of this Ordinance, be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity. Merger.
- (5.) A mortgagor entitled for the time being to the Suits for possession of

land by
mortgagors.

possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relating thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

Assignment
of debts and
choses in
action.

- (6.) Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be, and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Ordinance had not passed), to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor: Provided always, that if the debtor, trustee, or other person liable in respect of such debt or chose in action has had notice that such assignment is disputed by the assignor or anyone claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same.

Stipulations
not of the
essence of
contracts.

- (7.) Stipulations in contracts, as to time or otherwise, which would not before the commencement of this Ordinance have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all courts the same construction and effect as they would

before such commencement have received in equity.

- (8.) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally or upon such terms and conditions as the Court thinks just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable. Injunctions and receivers.
- (9.) In any cause or proceeding for damages arising out of a collision between two ships, if both ships are found to have been in fault, the rules in force in the High Court of Justice in England shall prevail. Damages by collisions at sea.
- (10.) In questions relating to the custody and education of infants the rules of equity shall prevail. Infants.
- (11.) Generally in all matters not herein-particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail. Cases of conflict not enumerated.
19. No action shall be open to objection on the ground that a merely declaratory decree or order is sought. Declaratory order.
20. Except in respect of the causes and matters which are by statutory provision directed to be heard and determined by a full Court, any single Judge sitting in Court may exercise all or any part of the jurisdiction by this Ordinance vested in the Supreme Court, and Powers of single Judge.

when sitting for the purpose of such exercise shall be deemed to constitute a Court; and any single Judge sitting in chambers may exercise all or any part of the jurisdiction aforesaid in all such causes and matters, and in all such proceedings in any causes or matters, as before the commencement of this Ordinance might be heard in chambers by a single Judge of any Court whose jurisdiction ceases upon the commencement of this Ordinance, or as may be directed or authorised to be so heard by any statutory provision.

Original
hearing

21. Subject to any statutory provision, every action and proceeding and all business arising out of the same shall so far as is practicable and convenient be heard, determined, and disposed of before a single Judge; and all proceedings in an action subsequent to the hearing or trial and down to and including the final judgment or order, except any proceedings on appeal, shall so far as it is practicable and convenient be had and taken before the Judge before whom the trial or hearing took place.

Appeal from
single Judge.

22. Subject to the provisions of this Ordinance, in any cause or matter, not being a criminal proceeding at the suit of the Crown, an appeal to a full Court shall lie from any judgment given or order made or refused by a single Judge.

But this enactment shall be subject to the following exception (that is to say), No order made by the consent of parties or as to costs only which by law are left to the discretion of the court shall be subject to any appeal except by leave of the Judge making such order.

Appeals under
Ordinance 11
of 1875.

23. Appeals under the Summary Convictions Appeal Ordinance, 1875, shall be heard and determined by a full Court if there are in the Colony two or more Judges not incapacitated from acting by illness or interest, but if there is only one Judge in the Colony not incapacitated as aforesaid, such appeals shall be heard and determined by such Judge alone, and his decision shall be final and without appeal.

Power to
reserve

24. Where any person is convicted of any indictable

offence, the Judge or Judges before whom the case is tried may in his or their discretion reserve any question of law arising on the trial for the consideration of a full Court; and thereupon if he or they think fit may respite execution of the judgment on such conviction, or postpone the judgment until such question has been considered and determined, and either commit the person convicted to prison or take a recognizance of bail with one sufficient surety or two or more sufficient sureties, and in such sum as to him or them seems fit, conditioned that the person convicted do appear, at such times and places as are from time to time appointed by such Judge or Judges or by the full Court, and receive judgment or render himself in execution as the case may be.

questions of
law on a
criminal trial

25. The Judge or Judges by whom upon any trial for an indictable offence a question of law is reserved shall state the question with the special circumstances upon which the same has arisen, and shall direct such statement to be specially entered upon the record.

Statement of
question
reserved.

26. Where, upon any trial for an indictable offence a question of law has been reserved, a full Court shall consider and determine such questions after hearing Counsel or the parties, if the Public Prosecutor or person convicted thinks it fit that the case should be argued, and the full Court may either—

Power of Full
Court in
Crown Cases
reserved.

- (1.) Confirm the judgment given upon the indictment, or
- (2.) Order that such judgment be set aside notwithstanding the verdict (which order shall for all purposes have the same effect as if the defendant had been acquitted), or
- (3.) Order that such judgment be set aside and give instead thereof the judgment which ought to have been given at the trial, or
- (4.) Make such other order as justice requires.

The full Court may, if it thinks fit, require the Judge or Judges by whom the question is reserved to amend the statement specially entered on the record.

27. Where upon any trial for an indictable offence a question of law is reserved and thereupon a recognizance is entered into, the same proceedings may be had upon

Escheating
recognizances.

such recognizance as are mentioned in the 71st section of the Ordinance No. 9 of 1848, intituled "An Ordinance to regulate the mode of proceeding in Criminal cases."

Power to
issue writ
ad melius
inquirendum.

28. The Supreme Court may, upon application by or on behalf of the Attorney General, if it appears to such Court that any inquest is, either by reason of the defective report of a district medical officer or for any other cause, inadequate, notwithstanding anything in the Coroners' Ordinance, 1875, or any other Ordinance, issue a writ *ad melius inquirendum*, directed either to the Coroner whose inquest is inadequate, or to such Coroner together with any other person or persons, or to any person or persons other than such Coroner, whom the Court thinks fit.

Power to
revise
proceedings
of inferior
Courts.

29. Upon application by or on behalf of the Attorney General, the Supreme Court may, if it thinks fit, order any Judge, Commissioner or Justice presiding in any inferior Court, to send to the Registrar the record of proceedings in any case, and may also, if it thinks fit, require in addition to such record a statement showing in detail the proceedings taken in reference to the whole case or any particular matter, and if it appears to the Supreme Court that there has been any material error in the proceedings of such inferior Court, the Supreme Court may set aside or vary any judgment order or proceedings of such inferior Court, and pass such judgment or order, and remit the case or matter to the inferior Court, with such directions as justice requires.

It shall be in the discretion of the Supreme Court to exercise the powers given to it by this section either without hearing any person or after hearing such persons as it thinks fit, and the Court may, if it thinks fit, direct that an order *nisi* be served upon such persons as the Court thinks fit, and upon making absolute any such order *nisi* may order the costs to be paid by all or any of the parties served as the Court thinks just.

"Inferior Court" in this section means the Court of any Stipendiary or other Justice or Justices of the Peace, and any Court presided over by any Commissioner or other person acting as a Judge under the Ordinance No. 16 of 1851, intituled "An Ordinance for the estab-

lishing or Petty Civil Courts" or any Ordinance amending the same.

30. It shall be lawful for the Supreme Court to exercise a summary jurisdiction at law in all actions where the amount of the claim, debt, or damages sought to be recovered does not exceed the sum of two hundred pounds, and in all actions for the recovery of the possession of lands where the annual rent or value does not exceed the sum of twenty pounds.

Summary
jurisdiction at
law.

*Repealed by
19-1901*

31. It shall be lawful for the Supreme Court to exercise a summary jurisdiction in equity in the actions or matters hereinafter mentioned; that is to say,

Summary
jurisdiction in
equity.

1. In all actions by creditors, legatees (whether specific, pecuniary, or residuary), devisees, or next of kin, for an account or administration of the personal estate of any deceased person where such personal estate does not exceed in amount or value the sum of two hundred pounds:
2. In all actions for the execution of trusts in which the trust estate or fund does not exceed in amount or value the sum of two hundred pounds:
3. In all actions for foreclosure or redemption, or for enforcing any mortgage charge or lien, where the principal sum secured or demanded does not exceed the sum of two hundred pounds:
4. In all actions for the specific performance of, or for the reforming, delivering up, or cancelling, of any agreement for the sale, purchase or lease of any property where in the case of a sale or purchase the purchase money, or in the case of a lease the value of the property, does not exceed the sum of two hundred pounds:
5. In all actions for the dissolution or winding up of any partnership where the whole property, stock, and credits of such partnership does not exceed in amount or value the sum of two hundred pounds:
6. In all actions for partition or for sale in lieu of partition, where the value of the property to which the action relates does not exceed the sum of two hundred pounds:

7. In all proceedings for orders in the nature of injunctions, where the same are requisite for granting relief in any matter in which summary jurisdiction in equity is given to the court by this Ordinance.

Abandoning
excess.

32. If any plaintiff is satisfied to recover a sum not exceeding two hundred pounds the court may entertain the action of such plaintiff, in its summary jurisdiction, and in case any order is made in favour of such plaintiff, the same shall be expressed to be, and shall be, in full discharge of the whole cause of action.

Splitting
claims.

33. No cause of action which exists at any one time amounting in the whole to a sum exceeding two hundred pounds shall be split or divided so as to be made the ground of two or more different actions in order to bring such cases within the summary jurisdiction of the Supreme Court, but if such court finds that the plaintiff in any case has split his cause of action as aforesaid, such court shall dismiss the action without prejudice to the plaintiff's right to sue upon the cause of action in such other manner as he may be advised.

Questions of
jurisdiction
dependent
on value.

34. Any Judge of the Supreme Court sitting in the exercise of its summary jurisdiction may determine whether any cause or matter is within the summary jurisdiction so far as such determination depends upon any question as to the amount or value of any fund or property, and such determination shall be final and conclusive subject to this qualification, that if in the course of any subsequent proceeding it appears that the estimate made of such amount or value was erroneous, any Judge sitting as aforesaid may, if he thinks fit, order any further proceedings to be taken under the ordinary jurisdiction, but without prejudice to the validity of any proceedings prior to such order.

Power to sit
at any time

35. From and after the commencement of this Ordinance the division of the legal year into terms shall be abolished.

Subject to any statutory provision the Supreme Court and each of the Judges thereof shall have power at any time and at any place in this colony to sit and act for the transaction of any part of the business of such court or Judges, or for the discharge of any duty which by

any Order in Council, Ordinance or otherwise, is required to be discharged during or after term.

36. The Governor may at any time by warrant under his hand and the seal of the Colony require the Judges of the Supreme Court to appoint special sittings to be held at such time or times as may be directed by the warrant for the trial of any particular criminal case or cases or class of criminal cases, and such Judges shall appoint and hold sittings accordingly and so far as is necessary in order to comply with the exigency of the warrant shall lay all other business aside.

Special
Criminal
Sittings.

37. In every year the period from the twenty-sixth day of June to the third day of October (both days being included) or such other period as may be appointed by rules of court under this Ordinance shall be observed as a vacation by the Supreme Court, but such vacation shall not extend to the summary jurisdiction of the said court, or to appeals under the Summary Convictions Appeal Ordinance 1875. During any vacation one Judge at least shall remain in the Colony.

Vacations

38. Provision shall be made by rules of court for the hearing whether during vacation or not of all such applications as require to be immediately or promptly heard.

Urgent
matters.

39. Sittings of the Supreme Court for the trial of criminal cases shall be held in Port of Spain and San Fernando, and so far as is practicable consistently with the observance of the vacation appointed by this Ordinance, such sittings shall be held at intervals not exceeding two months.

Ordinary
criminal
sittings.

40. The rules of court in the schedule to this Ordinance shall come into operation upon the commencement of this Ordinance, and as to all matters to which they extend shall regulate the proceedings of the Supreme Court, but they may be annulled or altered by rules of court made pursuant to this Ordinance.

Rules in
First
Schedule.

41. The Chief Justice with the concurrence of a Puisne Judge may from time to time make any further or additional rules for carrying this Ordinance into

a Power to
make Rules
of Court.

effect, and in particular for all or any of the following matters, that is to say :—

1. For regulating the sittings of the Supreme Court, and the Judges thereof sitting in chambers, and the period to be observed as a vacation, and
2. For regulating the pleading, practice and procedure in the Supreme Court, and
3. Generally for regulating any matters relating to the practice and procedure of the Supreme Court, or to the duties of the officers thereof, or to the costs of or fees upon proceedings therein, and
4. For altering or annulling any rules of court previously made.

This section shall come into operation immediately on the passing of this Ordinance.

Approval
of Rules of
Court by
Legislative
Council.

42. Subject to the provisions of this Ordinance, rules of court made under this Ordinance shall not have any force or effect until they have been approved by the Governor and the Legislative Council, and when so approved shall have the same force and effect as if they were contained in an Ordinance, and may be disallowed by Her Majesty in the same manner and with the same consequences as in the case of an Ordinance. Any such rules approved as aforesaid shall, subject to disallowance by Her Majesty, come into operation on the day appointed in such rules in this behalf, or if no day is so appointed, on such day as the Governor by proclamation appoints.

Disallowance by Her Majesty under this section shall take effect upon and from the day on which the proclamation notifying the same is published in the *Royal Gazette*, and shall not affect any proceedings taken before such publication.

Rules not
requiring
approval by
Legislative
Council.

43. Notwithstanding anything contained in this Ordinance, the Chief Justice with the concurrence of a Puisne Judge may from time to time make, alter and revoke any such rules of court, orders or regulations, as any of the courts whose jurisdiction ceases upon the commencement of this Ordinance or the Judges of any such court might have made of their own sole authority if this Ordinance had not passed; and such rules, orders

or regulations shall not require the approval of the Legislative Council, but they shall be read subject to any statutory provisions.

44. Subject to any statutory provisions, the practice and procedure in all criminal causes and matters whatsoever shall be the same as the practice and procedure in similar causes and matters before the commencement of this Ordinance. Saving procedure in criminal cases.

45. Nothing contained in or deriving authority from this Ordinance, save as far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury, or the rules of evidence or the law relating to jurymen or juries. Saving as to evidence.

46. Save as may be otherwise provided by statutory provisions, all forms and methods of proceeding which at the commencement of this Ordinance were in force under or by virtue of any law, custom, general order or rules whatsoever, and which are not inconsistent with any statutory provision, may continue to be used and practised in such and the like cases and for such and the like purposes as those to which they would have been applicable if this Ordinance had not passed. General saving of existing procedure. ✓

47. All Orders in Council and Ordinances relating to the several courts whose jurisdiction ceases upon the commencement of this Ordinance, or to the judges of any such courts, or wherein any of such courts or judges are mentioned or referred to, shall be construed and take effect, so far as relates to anything done or to be done after the commencement of this Ordinance, as if the Supreme Court and the judges thereof, as the case may be, had been named therein instead of such courts or judges whose jurisdiction ceases as aforesaid; and in all cases, not by any statutory provision expressly provided for, in which the concurrence or the advice or consent of any judge or judges of any one or more of the courts whose jurisdiction ceases as aforesaid is necessary to the exercise of any power or authority capable of being exercised after the commencement of this Ordinance, such power or authority may be Laws relating to former Courts to be read as applying to Courts under this Ordinance.

exercised by the Chief Justice and a Puisne Judge of the Supreme Court.

Power to adapt enactments relating to procedure or practice.

48. Where any provisions in respect of the practice or procedure of or in any court whose jurisdiction ceases upon the commencement of this Ordinance are contained in any Order in Council or Ordinance, rules of court may be made modifying such provisions to any extent that may be deemed necessary for adapting the same to the Supreme Court.

Any provisions relating to the payment, transfer or deposit into or in or out of any court of any money or property, or to the dealing therewith, shall for the purposes of this section be deemed to be provisions relating to practice and procedure.

Transfer of pending business.

49. In all causes, matters and proceedings whatsoever which before the commencement of this Ordinance have been fully heard, and in which judgment has not been given, or having been given has not been signed, drawn up, passed, entered, or otherwise perfected at the commencement of this Ordinance, such judgment, decree, rule or order may be given or made, signed, drawn up, passed, entered or perfected respectively, after the commencement of this Ordinance, in the name of the same court, and by the same judges and officers, and generally in the same manner, in all respects as if this Ordinance had not passed; and the same shall take effect, to all intents and purposes, as if the same had been duly perfected before the commencement of this Ordinance; and every judgment, decree, rule, or order of any court whose jurisdiction ceases upon the commencement of this Ordinance which has been duly perfected at any time before the commencement of this Ordinance, may be executed and enforced, and if necessary amended or discharged by the Supreme Court in the same manner as if it had been a judgment, decree, rule or order of the Supreme Court; and all causes, matters and proceedings whatsoever, whether civil or criminal, pending in any of the courts whose jurisdiction ceases upon the commencement of this Ordinance, shall be continued and concluded in and before the Supreme Court, and the Supreme Court shall have the same jurisdiction in relation to all such causes, matters and proceedings as if

the same had been commenced therein and continued therein down to the point at which the transfer takes place; and, so far as relates to the form and manner of procedure, such causes, matters and proceedings, or any of them, may be continued and concluded in and before the Supreme Court, either in the same or the like manner as they would have been continued and concluded in the respective Courts from which they have been transferred, or according to the ordinary course of the Supreme Court (so far as the same may be applicable thereto), as the Supreme Court may think fit to direct.

50. The existing Registrar of the Courts shall, from ^{Existing} and after the commencement of this Ordinance, be ^{officers of} Registrar of the Supreme Court. ^{Court.}

The existing Registrar in Bankruptcy and all clerks, commissioners to take oaths or affidavits, messengers and other officers and assistants attached at the commencement of this Ordinance to any court whose jurisdiction ceases upon the commencement of this Ordinance, and also the Marshal of the Island, the Deputy Marshal at San Fernando and all assistants of such Marshal or Deputy Marshal, and all registrars, clerks, officers and other persons at the commencement of this Ordinance engaged in the preparation or execution of commissions or writs, or in the registration of judgments, or in any other ministerial duties in aid of or connected with any of the last-mentioned courts shall, from and after the commencement of this Ordinance, be attached to the Supreme Court, and shall discharge such duties as may be prescribed by statutory provision, but the duties required to be performed by any officer shall be the same as or analogous to the duties which he performed previously to the commencement of this Ordinance, and subject to any such statutory provision, every such officer shall continue to perform as nearly as may be the same duties as were performed by him before the commencement of this Ordinance.

Notwithstanding any thing contained in this Ordinance the existing Registrar of the Courts, the existing Registrar in Bankruptcy, the existing Marshal of the Island and the other existing officers attached to the Supreme Court by this section shall hold their offices by the same tenure and upon the same terms and

conditions and receive the same salaries, and if entitled to pensions be entitled to the same pensions as if this Ordinance had not passed.

Transfer of
books and
papers.

51. All books, documents, papers and chattels in the possession of any Court whose jurisdiction ceases upon the commencement of this Ordinance or of any officer or person attached to any such Court as such officer or by reason of his being so attached shall be transferred to the Supreme Court and shall be dealt with by such officer or person in such manner as the Supreme Court directs, and any person who fails to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Supreme Court.

Powers of
commissioners
to administer
oaths.

52. Every person who at the commencement of this Ordinance is authorised to administer oaths in any of the Courts whose jurisdiction ceases upon the commencement of this Ordinance shall be a Commissioner to administer oaths in all causes and matters whatsoever which may from time to time be depending in the Supreme Court, but every such Commissioner may at any time be removed by the Court.

Solicitors.

53. From and after the commencement of this Ordinance all persons admitted as solicitors or attorneys of, or by law empowered to practise in, any Court whose jurisdiction ceases upon the commencement of this Ordinance shall be entitled to the same privileges and subject to the same obligations so far as circumstances will permit as if this Ordinance had not passed, and all persons who from time to time if this Ordinance had not passed would have been entitled to be admitted as solicitors or attorneys of, or been by law empowered to practise in any such Court shall be entitled to be admitted and to be called Solicitors of the Supreme Court and shall be admitted by any Judge of the Supreme Court, and shall as far as circumstances will permit be entitled to the same privileges and be subject to the same obligations as if this Ordinance had not passed.

Any solicitors or attorneys to whom this section applies shall be deemed to be officers of the Supreme Court, and that Court or any Judge thereof may exercise

the same jurisdiction in respect of such solicitors or attorneys as any Court whose jurisdiction ceases upon the commencement of this Ordinance might before the commencement of this Ordinance have exercised in respect of any solicitor or attorney admitted to practise therein.

The Judges of the Supreme Court, or any two of them, may from time to time by regulation adapt any enactment relating to solicitors or attorneys and any declaration, certificate or form required under any such enactment to the solicitors of the Supreme Court under this section.

54.

- (1.) Any person who not being a barrister or advocate or a person duly qualified according to law to practise as a conveyancer draws or prepares either directly or indirectly, for or in expectation of any fee, gain or reward, or receives any fee, gain or reward for drawing or preparing any deed or conveyance, and

Prohibition of
unqualified
persons
practising as
conveyancers.

- (2.) Any person who not being either

(a.) A barrister or advocate or person duly qualified according to law to practise as a conveyancer, or

(b.) A Solicitor of the Supreme Court or a notary public,

draws or prepares directly or indirectly, for or in expectation of any fee, gain or reward, or receives any fee, gain or reward for drawing or preparing any deed, conveyance or other legal document whatsoever

shall be guilty of an offence punishable on summary conviction and on conviction thereof before a Stipendiary Justice of the Peace shall be liable to a penalty not exceeding twenty-five pounds: Provided that this section shall not apply to any person drawing or preparing any will or other testamentary papers.

Passed in Council this seventeenth day of December, in the year of our Lord one thousand eight hundred and seventy-nine.

G. F. BUSHE,
Acting Clerk of the Council.

THE SCHEDULE.

RULES OF COURT.

(NOTE.—Where no other provision is made by the Ordinance or these Rules the present procedure and practice remain in force.)

ORDER I.—*Form and Commencement of Action.*

1. All actions and suits which have hitherto been commenced in the Supreme Civil Court by declaration, bill, information or writ, and all probate suits hitherto commenced by citation or otherwise shall be instituted in the Supreme Court by a proceeding to be called an action.

2. The procedure and practice under the Ordinance No. 2 of 1845, intituled "An Ordinance to enable the Supreme Civil Court to give relief against adverse claims made upon persons having no interest in the subject matter of such claims," shall apply to all actions, and the application by a defendant shall be made at any time after being served with a writ of summons and before delivering a defence.

3. All other proceedings in and applications to the Supreme Court may, subject to these Rules, be taken and made in the same manner as they would have been taken and made in any Court in which any proceeding or application of the like kind could have been taken or made if the Ordinance had not been passed.

ORDER II.—*Writ of Summons and Procedure, &c.*

1. Every action in the Supreme Court shall be commenced by a writ of summons, which shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action.

2. Any costs occasioned by the use of any more prolix or other forms of writs, and of indorsements thereon, than the forms hereinafter prescribed, shall be borne by the party using the same, unless the Court otherwise direct.

3. The writ of summons for the commencement of an action shall, except in the cases in which any different form is hereinafter provided, be in Form No. 1 in Part I of Appendix (A) hereto, with such variations as circumstances may require.

4. No writ of summons for service out of the jurisdiction, or of which notice is to be given out of the jurisdiction, shall be issued without the leave of the Court or a Judge.

5. A writ of summons to be served out of the jurisdiction, or of which notice is to be given out of the jurisdiction, shall be in Form No. 2 in Part I of Appendix (A) hereto, with such variations as circumstances may require. Such notice shall be in Form No. 3 in the same part, with such variations as circumstances may require.

6. Every writ of summons and also every other writ shall bear date on the day on which the same is issued, and shall be tested in

the name of the Chief Justice or acting Chief Justice, or if there be no Chief Justice or acting Chief Justice in the Colony in the name of a Puisne Judge.

ORDER III.—*Indorsements of Claim.*

1. The indorsement of claim shall be made on every writ of summons before it is issued.
2. In the indorsement required by Order II, Rule 1, it shall not be essential to set forth the precise ground of complaint, or the precise remedy or relief to which the plaintiff considers himself entitled. The plaintiff may, by leave of the Court or Judge amend such indorsement so as to extend it to any other cause of action or any additional remedy or relief.
3. The indorsement of claim may be to the effect of such of the Forms in Part II. of Appendix (A) hereto as is applicable to the case, or if none be found applicable then such other similarly concise form as the nature of the case may require.
4. If the plaintiff sues or the defendant or any of the defendants is sued in a representative capacity, the indorsement shall show, in manner appearing by the statement in Appendix (A) hereto, Part II., sec. VII., or by any other statement to the like effect, in what capacity the plaintiff or defendant sues or is sued.
5. In probate actions the indorsement shall show whether the plaintiff claims as creditor, executor, administrator, residuary legatee, legatee, next of kin, heir-at-law, devisee, or in any and what other character.
6. In all actions where the plaintiff seeks merely to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising upon a contract, express or implied as, for instance, on a bill of exchange, promissory note, cheque, or other simple contract debt, or on a bond or contract under seal or for payment of a liquidated amount of money, or on a statute where the sum sought to be recovered is a fixed sum of money, or in the nature of a debt, or on a guaranty, whether under seal or not, where the claim against the principal is in respect of such debt or liquidated demand, bill, cheque, or note, or on a trust, the writ of summons may be specially indorsed with the particulars of the amount sought to be recovered, after giving credit for any payment or set-off. In the case of a dishonoured bill or note the indorsement may include the expenses incurred in noting for non-acceptance or non-payment or otherwise by reason of the dishonour.
7. Wherever the plaintiff's claim is for a debt or liquidated demand only, the indorsement, besides stating the nature of the claim, shall state the amount claimed for debt, or in respect of such demand, and for costs respectively, and shall further state, that upon payment thereof within four days after service, or in case of a writ not for service within the jurisdiction within the time allowed for appearance, further proceedings will be stayed. Such statement may be in the form in Appendix (A) hereto, Part II, sec. III.

The defendant may, notwithstanding such payment, have the costs taxed, and if more than one-sixth is disallowed, the plaintiff shall pay the costs of taxation.

8. In all cases of ordinary account, as, for instance, in the case of a partnership or executorship or ordinary trust account, where the plaintiff, in the first instance, desires to have an account taken, the writ of summons shall be indorsed with a claim that such account be taken.

ORDER IV.—*Indorsement of Address.*

1. The solicitor of a plaintiff suing by a solicitor shall indorse upon every writ of summons and notice in lieu of service of a writ of summons the address of the plaintiff, and also his own name or firm and place of business, and also, if his place of business is more than three miles from the Court House in Port of Spain, another proper place, to be called his address for service, which shall not be more than three miles from such Court House, where writs, notices, petitions, orders, summonses, warrants, and other documents, proceedings, and written communications may be left for him.

2. A plaintiff suing in person shall indorse upon every writ of summons, and notice in lieu of service of a writ of summons his place of residence and occupation, and also, if his place of residence is more than three miles from the Court House in Port of Spain, another proper place, to be called his address for service, which shall not be more than three miles from such Court House, where writs, notices, petitions, orders, summonses, warrants, and other documents, proceedings, and written communications may be left for him.

(The above two Rules are not to apply to cases under the summary jurisdiction in which the writ of summons is issued at San Fernando.)

ORDER V.—*Issue of Writs of Summons.*

1. Writs of summons shall be prepared by the plaintiff or his solicitor, and shall be written or printed, or partly written and partly printed.

2. Every writ of summons shall be sealed by the Registrar, and shall thereupon be deemed to be issued.

3. The plaintiff or his solicitor shall, on presenting any writ of summons for sealing, leave with the Registrar a copy, written or printed, or partly written and partly printed, of such writ, and all the indorsements thereon, and such copy shall be signed by or for the solicitor leaving the same, or by the plaintiff himself if he sues in person.

4. The Registrar shall file such copy, and an entry of the filing thereof shall be made in a book to be called the Cause Book, in which all suits shall be entered and numbered consecutively in each year according to the order in which the same are commenced, and the particulars of each suit, and a note of the steps and proceedings therein shall be entered in the said book in such manner

as the Court may from time to time direct, or as may be prescribed by Rules of Court. A separate Cause Book shall be kept for causes under the summary jurisdiction.

5. The issue of a writ of summons in Probate actions shall be preceded by the filing of an affidavit made by the plaintiff or one of the plaintiffs in verification of the indorsement on the writ.

ORDER VI.—*Concurrent Writs.*

1. The plaintiff in any action may, at the time of, or at any time during twelve months after the issuing of the original writ of summons, issue one or more concurrent writ or writs, each concurrent writ to bear teste of the same day as the original writ, and to be marked with a seal bearing the word "concurrent," and the date of issuing the concurrent writ; and such seal shall be impressed upon the writ by the Registrar: Provided always that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force.

2. A writ for service within the jurisdiction may be issued and marked as a concurrent writ with one for service, or whereof notice in lieu of service is to be given, out of the jurisdiction; and a writ for service, or whereof notice in lieu of service is to be given out of the jurisdiction may be issued and marked as a concurrent writ with one for service within the jurisdiction.

ORDER VII.—*Disclosure by Solicitors and Plaintiffs.*

1. Every solicitor whose name is indorsed on any writ of summons shall, on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto, declare forthwith whether such writ has been issued by him or with his authority or privity; and if such solicitor declares that the writ was not issued by him or with his authority or privity, all proceedings upon the same shall be stayed, and no further proceedings shall be taken thereupon without leave of the Court or a Judge.

2. When a writ is sued out by partners in the name of their firm, the plaintiffs or their solicitors shall, on demand in writing by or on behalf of any defendant, declare forthwith the names and places of residence of all the persons constituting the firm. And if the plaintiffs or their solicitor fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon such terms as the Court or a Judge may direct. And when the names of the partners are so declared, the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ. But all proceedings shall, nevertheless, continue in the name of the firm.

ORDER VIII.—*Renewal of Writ.*

1. No original writ of summons shall be in force for more than twelve months from the day of the date thereof, including the day of such date; but if any defendant therein named has not been served therewith, the plaintiff may, before the expiration of the twelve months, apply to adjudge for leave to renew the writ; and the judge if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original or concurrent writ of summons be renewed for six months from the date of such renewal, and so from time to time during the currency of the renewed writ. And the writ shall in such case be renewed by being marked with a seal bearing the date of the day, month, and year of such renewal; such seal to be provided and kept for that purpose at the Registrar's office, and to be impressed upon the writ by the Registrar, upon delivery to him by the plaintiff or his solicitor of a memorandum in Form No. 4 in Appendix (A), Part I; and a writ of summons so renewed shall remain in force and be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, and for all other purposes, from the date of the issuing of the original writ of summons.

2. The production of a writ of summons purporting to be marked with the seal of the Court, showing the same to have been renewed in manner aforesaid, shall be sufficient evidence of its having been so renewed, and of the commencement of the action as of the first date of such renewed writ for all purposes.

ORDER IX.—*Service of Writ of Summons.*1. *Mode of Service.*

1. No service of writ shall be required when the defendant, by his solicitor, agrees to accept service, and enters an appearance.

2. When service is required the writ shall, wherever it is practicable, be served in the manner in which personal service is now made, but if it be made to appear to the Court or to a Judge that the plaintiff is from any cause unable to effect prompt personal service, the Court or Judge may make such order for substituted or other service, or for the substitution of notice for service, as may seem just.

2. *On particular Defendants.*

3. When husband and wife are both defendants to the action, service on the husband shall be deemed good service on the wife, but the Court or a Judge may order that the wife shall be served, with or without service on the husband.

4. When an infant is a defendant to the action, service on his or her father or guardian, or if none, then upon the person with whom the infant resides or under whose care he is, shall, unless the Court or Judge otherwise orders, be deemed good service on the infant; provided that the Court or Judge may order that

service made or to be made on the infant shall be deemed good service.

5. When a lunatic or person of unsound mind not so found by inquisition is a defendant to the action, service on the committee of the lunatic, or on the person with whom the lunatic or person of unsound mind resides or under whose care he is, shall, unless the Court or Judge otherwise orders, be deemed good service on such defendant.

3. *On Partners and other Bodies.*

6. Where partners are sued in the name of their firm, the writ shall be served either upon any one or more of the partners or at the principal place within the jurisdiction of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and, subject to the rules hereinafter contained, such service shall be deemed good service upon the firm.

7. Where one person carrying on business in the name of a firm apparently consisting of more than one person is sued in the firm name, the writ may be served at the principal place within the jurisdiction of the business so carried on upon any person having at the time of service the control or management of the business there; and, subject to any of the Rules of the Supreme Court, such service shall be deemed good service on the person so sued.

8. Whenever, by any statute, provision is made for service of any writ of summons, bill, petition, or other process upon any Corporation, or any body or number of persons, whether corporate or otherwise, every writ of summons may be served in the manner so provided.

4. *In action to recover Land.*

9. Service of a writ of summons in an action to recover land may, in case of vacant possession, when it cannot otherwise be effected, be made by posting a copy of the writ upon the door of the dwelling-house or in some conspicuous part of the property.

Generally.

10. Service of a writ of summons within the jurisdiction shall, unless the Court otherwise directs, be made by the Marshal. Service of a writ of summons out of the jurisdiction shall be made by the party suing out such writ or his solicitor, or any person authorised by such party or solicitor.

11. The person serving a writ of summons shall, within three days at most after such service, indorse on the writ the day of the month and week of the service thereof; otherwise the plaintiff shall not be at liberty, in case of non-appearance, to proceed by default; and every affidavit of service of such writ shall mention the day on which such indorsement was made.

ORDER.—X.—*Substituted Service.*

Every application to the Court or a Judge, under Order IX., Rule 2, for an order for substituted or other service, or for the substitution of notice for service, shall be supported by an affidavit setting forth the grounds upon which the application is made.

ORDER XI.—*Service out of the Jurisdiction.*

1. Service out of the jurisdiction of a writ of summons or notice of a writ of summons may be allowed by the Court or a Judge whenever the whole or any part of the subject-matter of the action is land or stock, or other property situate within the jurisdiction, or any act, deed, will, or thing affecting such land, stock, or property, and whenever the contract which is sought to be enforced or rescinded, dissolved, annulled, or otherwise affected in any such action; or for the breach whereof damages or other relief are or is demanded in such action, was made or entered into within the jurisdiction, and whenever there has been a breach within the jurisdiction of any contract wherever made, and whenever any act or thing sought to be restrained or removed, or for which damages are sought to be recovered, was or is to be done or is situate within the jurisdiction.

2. Whenever any action is brought in respect of any contract which is sought to be enforced or rescinded, dissolved, annulled, or otherwise affected in any such action, or for the breach whereof damages or other relief are or is demanded in such action, when such contract was made or entered into within the jurisdiction, or whenever there has been a breach within the jurisdiction of any contract wherever made, the Court or Judge, in exercising his discretion as to granting leave to serve such writ or notice on a defendant out of the jurisdiction, shall have regard to the amount or value of the property in dispute or sought to be recovered, and to the comparative cost and convenience of proceeding in the Colony or in the place of such defendant's residence, and in all the above-mentioned cases no such leave is to be granted without an affidavit stating the particulars necessary for enabling the court or judge to exercise his discretion in manner aforesaid, and all such other particulars (if any) as he may require to be shown.

3. In probate actions service of a writ of summons or notice of a writ of summons may by leave of the Court or Judge be allowed out of the jurisdiction.

4. Every application for an order for leave to serve such writ or notice on a defendant out of the jurisdiction shall be supported by evidence, by affidavit, or otherwise, showing in what place or country such defendant is or probably may be found, and whether such defendant is a British subject or not, and the grounds upon which the application is made.

5. Any order giving leave to effect such service or give such notice shall limit a time after such service or notice within which such defendant is to enter an appearance, such time to depend on

the place or country where or within which the writ is to be served or the notice given.

6. Notice in lieu of service shall be given in the manner in which writs of summons are served.

ORDER XII.—*Appearance.*

1. A defendant shall enter his appearance to a writ of summons by delivering to the Registrar a memorandum in writing, dated on the day of the delivering the same, and containing the name of the defendant's solicitor, or stating that the defendant defends in person.

2. The solicitor of a defendant appearing by a solicitor shall state in such memorandum his place of business, and a place, to be called his address for service, which shall not be more than three miles from the court house in Port of Spain.

3. A defendant appearing in person shall state in such memorandum his address, and a place, to be called his address for service, which shall be not more than three miles from the court house in Port of Spain.

4. If the memorandum does not contain such address it shall not be received; and if any such address is illusory or fictitious the appearance may be set aside by the Court or a Judge, on the application of the plaintiff.

5. The memorandum of appearance shall be in the Form No. 5, Appendix (A), Part I. with such variations as the circumstances of the case may require.

6. Upon receipt of a memorandum of appearance, the Registrar shall forthwith enter the appearance in the cause book.

7. Where partners are sued in the name of their firm, they shall appear individually in their own names. But all subsequent proceedings shall, nevertheless, continue in the name of the firm.

8. Where any person carrying on business in the name of a firm apparently consisting of more than one person is sued in the name of the firm, he shall appear in his own name; but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

9. If two or more defendants in the same action appear by the same solicitor and at the same time, the names of all the defendants so appearing shall be inserted in one memorandum.

10. A solicitor not entering an appearance in pursuance of his written undertaking so to do on behalf of any defendant shall be liable to an attachment.

11. A defendant may appear at any time before judgment. If he appear at any time after the time limited for appearance he shall, on the same day, give notice thereof to the plaintiff's solicitor, or to the plaintiff himself if he sues in person, and he shall not, unless the Court or a Judge otherwise orders, be entitled to any further time for delivering his defence, or for any other purpose, than if he had appeared according to the writ.

12. In probate actions any person not named in the writ may intervene and appear in the action as in the High Court of Justice in England, on filing an affidavit showing how he is interested in the estate of the deceased.

13. Any person not named as a defendant in a writ of summons for the recovery of land may by leave of the Court or Judge appear and defend, on filing an affidavit showing that he is in possession of the land either by himself or his tenant.

14. Any person appearing to defend an action for the recovery of land as landlord in respect of property whereof he is in possession only by his tenant, shall state in his appearance that he appears as landlord.

15. When a person not named as defendant in any writ of summons for the recovery of land has obtained leave of the Court or Judge to appear and defend, he shall enter an appearance according to the foregoing rules, intituled in the action against the party or parties named in the writ as defendant or defendants, and shall forthwith give notice of such appearance to the plaintiff's solicitor, or to the plaintiff if he sues in person, and shall in all subsequent proceedings be named as a party defendant to the action.

16. Any person appearing to a writ of summons for the recovery of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in his memorandum of appearance or in a notice intituled in the cause, and signed by him or his solicitor; such notice to be served within four days after appearance; and an appearance where the defence is not so limited shall be deemed an appearance to defend for the whole.

17. The notice mentioned in the last preceding rule may be in the Form No. 6 in Part I. of Appendix (A) hereto, with such variations as circumstances may require.

ORDER XIII.—*Default of Appearance.*

1. Where no appearance has been entered to a writ of summons for a defendant who is an infant or a person of unsound mind not so found by inquisition, the plaintiff may apply to the Court or a Judge for an order that some proper person be assigned guardian of such defendant, by whom he may appear and defend the action. But no such order shall be made unless it appears on the hearing of such application that the writ of summons was duly served, and that notice of such application was after the expiration of the time allowed for appearance, and at least six clear days before the day in such notice named for hearing the application, served upon or left at the dwelling-house of the person with whom or under whose care such defendant was at the time of serving such writ of summons, and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the

dwelling-house of the father or guardian, if any, of such infant, unless the Court or Judge at the time of hearing such application dispenses with such last-mentioned service.

2. Where any defendant fails to appear to a writ of summons, and the plaintiff is desirous of proceeding upon default of appearance under any of the following Rules of this Order, or under Order XV., Rule 1, he shall, before taking such proceeding upon default, file an affidavit of service, or of notice in lieu of service, as the case may be.

3. In case of non-appearance by the defendant where the writ of summons is specially indorsed, under Order III., Rule 6, the plaintiff may sign final judgment for any sum not exceeding the sum indorsed on the writ, together with interest at the rate specified, if any, to the date of the judgment, and a sum for costs, but it shall be lawful for the Court or a Judge to set aside or vary such judgment upon such terms as may seem just.

4. Where there are several defendants to a writ specially indorsed for a debt or liquidated demand in money, under Order III., Rule 6, and one or more of them appear to the writ, and another or others of them do not appear, the plaintiff may enter final judgment against such as have not appeared, and may issue execution upon such judgment without prejudice to his right to proceed with his action against such as have appeared.

5. Where the defendant fails to appear to the writ of summons and the writ is not specially indorsed, but the plaintiff's claim is for a debt or liquidated demand only, no statement of claim need be delivered, but the plaintiff may file an affidavit of service or notice in lieu of service, as the case may be, and a statement of the particulars of his claim in respect of the causes of action stated in the indorsement upon the writ, and may after the expiration of eight days, enter final judgment for the amount shown thereby and costs to be taxed, provided that the amount shall not be more than the sum indorsed upon the writ besides costs.

6. In case no appearance is entered in an action for the recovery of land, within the time limited for appearance, or if an appearance be entered but the defence be limited to part only, the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply.

7. Where the plaintiff has indorsed a claim for mesne profits, arrears of rent, or damages for breach of contract, upon a writ for the recovery of land, he may enter judgment as in the last preceding rule mentioned for the land; and may proceed as in the other preceding rules of this order as to such other claim so indorsed.

8. In all other actions not by the rules in this order otherwise specially provided for, in case the party served with the writ does not appear within the time limited for appearance, upon the filing by the plaintiff of a proper affidavit of service the action may pro-

ceed as if such party had appeared on the last day limited for appearance, but pleadings or other documents or proceedings required to be delivered to the defendant shall be deemed to be so delivered upon being filed with the Registrar.

ORDER XIV.—*Leave to Defend where Writ specially Indorsed.*

1. Where the defendant appears to a writ of summons specially indorsed under Order III., Rule 6, the plaintiff may, on affidavit made by himself or by any other person who can swear positively to the debt or cause of action, verifying the cause of action, and stating that in his belief there is no defence to the action, call on the defendant to show cause before the Court or a Judge why the plaintiff should not be at liberty to sign final judgment for the amount so indorsed, together with interest, if any, and costs. A copy of the affidavit shall accompany the summons or notice of motion. The Court or a Judge may thereupon, unless the defendant, by affidavit or otherwise, satisfy the Court or a Judge that he has a good defence to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend, make an order empowering the plaintiff to sign judgment accordingly.

2. The application by the plaintiff for leave to enter final judgment under the last preceding rule, shall be made by summons returnable not less than two clear days after service, or by motion whereof not less than two clear days notice shall be given.

3. The defendant may show cause against such application by offering to bring into Court the sum indorsed on the writ, or by affidavit. In such affidavit he shall state whether the defence he alleges goes to the whole or to part only, and if so, to what part, of the plaintiff's claim. And the Judge may, if he think fit, order the defendant to attend and be examined upon oath; or to produce any books or documents or copies of or extracts therefrom.

4. If it appear that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of his claim is admitted to be due, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, or the payment of the amount levied or any part thereof into Court by the Marshal, the taxation of costs, or otherwise, as the Judge may think fit. And the defendant may be allowed to defend as to the residue of the plaintiff's claim.

5. If it appears to the Judge that any defendant has a good defence to or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to enter final judgment against the latter, and may issue execution upon such judgment

without prejudice to his right to proceed with his action against the former.

6. Leave to defend may be given unconditionally or subject to such terms as to giving security, or otherwise, as the Court or a Judge may think fit.

ORDER XV.—*Application for Account where Writ indorsed under Order III., Rule 8.*

1. In default of appearance to a summons indorsed under Order III., Rule 8, and after appearance unless the defendant, by affidavit or otherwise, satisfy the Court or a Judge that there is some preliminary question to be tried, an order for the account claimed, with all directions usual in the High Court of Justice in England in similar cases, shall be forthwith made.

2. An application for such order as mentioned in the last preceding rule shall be made by summons or motion, and be supported by an affidavit filed on behalf of the plaintiff, stating concisely the grounds of his claim to an account. The application may be made at any time after the time for entering an appearance has expired.

ORDER XVI.—*Parties.*

1. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who is not found entitled to relief, unless the Court in disposing of the costs of the action otherwise directs.

2. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff or plaintiffs, the Court or a Judge may, if satisfied that it has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as may seem just.

3. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

4. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the Court or a Judge may make such order as may appear just to prevent any defendant

from being embarrassed or put to expense by being required to attend any proceedings in such action in which he may have no interest.

5. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

6. Where in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, in such manner as hereinafter mentioned, or as may be prescribed by any special order, join two or more defendants, to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties to the action.

7. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action: but the Court or a Judge may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to or in lieu of the previously existing parties thereto.

8. Married women and infants may respectively sue as plaintiffs by their next friends, in the manner practised in the High Court of Justice in England; and infants may, in like manner, defend any action by their guardians appointed for that purpose. Married women may also, by the leave of the Court or a Judge, sue or defend without their husbands and without a next friend, on giving such security (if any) for costs as the Court or a Judge may require.

9. Before the name of any person is used in any action as next friend of any infant, married woman, or other party, or as relator in any information, such person shall sign a written authority to the solicitor for that purpose, and such authority shall be filed with the writ of summons.

10. Where there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorised by the Court to defend in such action, on behalf or for the benefit of all parties so interested.

11. In any case in which the right of an heir-at-law or the next of kin or a class depends upon the construction which the Court may put upon an instrument, and it is not known or is difficult to ascertain who is or are such heir-at-law or next of kin or class, and the Court considers that in order to save expense or for some other reason it will be convenient to have the question or questions of construction determined before such heir-at-law, next of kin, or class have been ascertained by means of inquiry or otherwise, the Court may appoint some person or persons to represent such heir-at-law, next of kin, or class, and the judgment

of the Court in the presence of such person or persons shall be binding upon the party, or parties, or class so represented.

12. Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and any party to an action may in such case apply by summons to a Judge for a statement of the names of the persons who are co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as the Judge may direct.

13. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm.

14. Subject to the provisions of the Ordinance, and these rules, it shall not be competent to any defendant in any action to take any objection for want of parties to such action in any case to which the rules next hereinafter set forth extend:

Rule 1. Any residuary legatee or next of kin may, without serving the remaining residuary legatees or next of kin have a judgment for the administration of the personal estate of a deceased person.

Rule 2. Any legatee interested in a legacy charged upon real estate, and any person interested in the proceeds of real estate directed to be sold, may, without serving any other legatee or person interested in the proceeds of the estate, have a judgment for the administration of the estate of a deceased person.

Rule 3. Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like judgment.

Rule 4. Any one of several cestuisque trust under any deed or instrument may, without serving any other of such cestuisque trust, have a judgment for the execution of the trusts of the deed or instrument.

Rule 5. In all cases of actions for the protection of property pending litigation, and in all cases in the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6. Any executor, administrator, or trustee may obtain a judgment against any one legatee, next of kin, or cestuisque trust for the administration of the estate, or the execution of the trusts.

Rule 7. In all the above cases the Court, if it sees fit, may require any other person or persons to be made a party or parties to the action, and may, if it sees fit, give the conduct of the action to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8. In all the above cases the persons who, according to the practice of the High Court of Justice in England

ought to be served with notice of the judgment shall be served with such notice, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the action, and they may by an order of course have liberty to attend the proceedings under the judgment; and any party so served may, within one month after such service, apply to the Court to add to the judgment.

Rule 9. In all actions concerning real or personal estate which is vested in trustees under a will, settlement, or otherwise, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in actions concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the action; but the Court may, upon consideration of the matter, on the hearing, if it so thinks fit, order such persons, or any of them, to be made parties.

15. If in any action or other proceeding it appears to the Court that any deceased person who was interested in the matters in question has no legal personal representative, it shall be lawful for the Court either to proceed in the absence of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the action or other proceeding, on such notice to such person or persons, if any, as the Court thinks fit, either specially or generally by public advertisements; and the order so made by the said Court, and any order consequent thereon, shall bind the estate of such deceased person in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person, and such legal personal representative had been a party to the action or proceeding and had duly appeared and submitted his rights and interests to the judgment of the Court.

16. It shall be lawful for the Court to adjudicate on questions arising between parties notwithstanding that they may be some only of the parties interested in the property respecting which the question may have arisen, or that the property in question is comprised with other property in the same settlement, will, or other instrument, without making the other parties interested in the property respecting which the question may have arisen, or interested under the same settlement, or will, or other instrument, parties to the action, and without requiring the whole trusts and purposes of the settlement, will, or other instrument to be executed under the direction of the Court, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touching which the question or questions may have arisen: Provided that if the Court is of

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opinion that the application is fraudulent or collusive, or for some other reason ought not to be entertained, it shall have power to refuse to make the order prayed.

17. In all probate actions the rules as to parties, in use in the High Court of Justice in England, shall be in force.

18. No action shall be defeated by reason of the mis-joinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The Court or a Judge may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court or a Judge to be just, order that the name or names of any party or parties, whether as plaintiffs or as defendants, improperly joined be struck out and that the name or names of any party or parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added. No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent thereto. All parties whose names are so added as defendants shall be served with a summons or notice in manner hereinafter mentioned, or in such manner as may be prescribed by any special order, and the proceedings as against them shall be deemed to have begun only on the service of such summons or notice.

19. Any application to add or strike out or substitute a plaintiff or defendant may be made to the Court or a Judge at any time before trial by motion or summons, or at the trial of the action in a summary manner.

20. Where a defendant is added, unless otherwise ordered by the Court or a Judge, the plaintiff shall file an amended copy of and sue out a writ of summons, and serve such new defendant with such writ or notice in lieu of service thereof in the same manner as original defendants are served.

21. If a statement of claim has been delivered previously to such defendant being added, the same shall, unless otherwise ordered by the Court or Judge, be amended in such manner as the making such new defendant a party shall render desirable, and a copy of such amended statement of claim shall be delivered to such new defendant at the time when he is served with the writ of summons or notice or afterwards, within four days after his appearance.

22. Where a defendant is or claims to be entitled to contribution or indemnity, or any other remedy or relief over against any other person, or where from any other cause it appears to the Court or a Judge that a question in the action should be determined not only as between the plaintiff and defendant, but as between the plaintiff, defendant, and any other person, or between any or either of them, the Court or a Judge may on notice being

given to such last-mentioned person, make such order as may be proper for having the question so determined.

23. Where a defendant claims to be entitled to contribution, indemnity, or other remedy or relief over against any person not a party to the action, he may, by leave of the Court or a Judge, issue a notice to that effect, stamped with the seal with which writs of summons are sealed. A copy of such notice shall be filed with the Registrar and served on such person according to the rules relating to the service of writs of summons. The notice shall state the nature and grounds of the claim, and shall, unless otherwise ordered by the Court or a Judge, be served within the time limited for delivering his statement of defence. Such notice may be in the form or to the effect of the Form No. I in Appendix (B) hereto with such variations as circumstances may require, and therewith shall be served a copy of the statement of claim, or if there be no statement of claim, then a copy of the writ of summons in the action.

24. When under Rule 22 of this Order it is made to appear to the Court or a Judge at any time before or at the trial that a question in the action should be determined, not only as between the plaintiff and defendant, but as between the plaintiff and the defendant and any other person, or between any or either of them, the Court or a Judge, before or at the time of making the order for having such question determined, shall direct such notice to be given by the plaintiff at such time and to such person and in such manner as may be thought proper, and if made at the trial the Judge may postpone such trial as he may think fit.

25. If a person not a party to the action, who is served as mentioned in Rule 23, desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, he must enter an appearance in the action within eight days from the service of the notice. In default of his so doing, he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise. Provided always, that a person so served and failing to appear within the said period of eight days may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms, if any, as the Court or a Judge thinks fit.

26. If a person not a party to the action served under these Rules appears pursuant to the notice, the party giving the notice may apply to the Court or a Judge for directions as to the mode of having the question in the action determined; and the Court or Judge, upon the hearing of such application, may, if it appears desirable so to do, give the person so served liberty to defend the action upon such terms as seem just, and may direct such pleadings to be delivered, or such amendments in any pleadings to be made, and generally may direct such proceedings to be taken, and give such directions as to the Court or a Judge shall appear proper for having the question most conveniently determined, and

as to the mode and extent in or to which the person so served shall be bound or made liable by the decision of the question.

27. Where an action has been commenced in respect of any claim for the recovery of money or goods, or where goods or chattels have been taken or are intended to be taken in execution under process issued from the Supreme Court and the defendant in such action, or the Marshal or other officer, has applied for relief under the provisions of the Ordinance No. 2 of 1845, intituled "An Ordinance to enable the Supreme Civil Court to give relief against adverse claims made upon persons having no interest in the subject of such claims," it shall be lawful for the Court or a Judge to whom such application is made to exercise all the powers and authorities given to them by the last mentioned Ordinance and these rules, though the titles of the claimants to the money, goods, or chattels in question, or to the proceeds or value thereof, have not a common origin, but are adverse to and independent of one another.

28. When goods or chattels have been seized in execution by the Marshal or other officer under process of the Supreme Court, and some third person claims to be entitled under a bill of sale or otherwise to such goods or chattels, by way of security for a debt, the Court or a Judge may order a sale of the whole or part thereof, upon such terms as to payment of the whole or part of the secured debt, or otherwise, as such Court or Judge thinks fit, and may direct the application of the proceeds of such sale in such manner and upon such terms as to such Court or Judge may seem just.

29. Upon the hearing of any Rule or Order made under the said Ordinance No. 2 of 1845, calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the Court or Judge, wherever, from the smallness of the amount in dispute, or of the value of the goods seized, it appears desirable and right so to do, at the request of either party, to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner, upon such terms as such Court or Judge thinks fit to impose, and to make such other Rules and Orders therein as to costs and all other matters as may be just.

30. In all cases of Interpleader proceedings, where the question is one of law, and the facts are not in dispute, the Judge shall be at liberty, at his discretion, to decide the question without directing an action or issue, and, if he think it desirable, to order that a special case be stated for the opinion of the full Court.

31. The judgment in any such action or issue as may be directed under these Rules in any Interpleader proceedings, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

ORDER XVII.—*Joinder of Causes of Action.*

1. Subject to the following Rules, the plaintiff may unite in the same action and in the same statement of claim several causes of action, but if it appear to the Court or a Judge that any such causes of action cannot be conveniently tried or disposed of together, the Court or Judge may order separate trials of any of such causes of action to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

2. No cause of action shall, unless by leave of the Court or a Judge, be joined with an action for the recovery of land, except claims in respect of mesne profits or arrears of rent in respect of the premises claimed, or any part thereof, and damages for breach of any contract under which the same or any part thereof are held.

3. Claims by a trustee in bankruptcy as such shall not, unless by leave of the Court or a Judge, be joined with any claim by him in any other capacity.

4. Claims by or against husband and wife may be joined with claims by or against either of them separately.

5. Claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator.

6. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

7. The last three preceding Rules shall be subject to Rule 1 of this Order, and to the Rules hereinafter contained.

8. Any defendant alleging that the plaintiff has united in the same action several causes of action which cannot be conveniently disposed of in one action, may at any time apply to the Court or a Judge for an order confining the action to such of the causes of action as may be conveniently disposed of in one proceeding.

9. If, on the hearing of such application as in the last preceding Rule mentioned, it appears to the Court or a Judge that the causes of action are such as cannot be conveniently disposed of in one action, the Court or a Judge may order any of such causes of action to be excluded, and may direct the statement of claim, or, if no statement of claim has been delivered, the copy of the writ of summons, and the indorsement of claim on the writ of summons, to be amended accordingly, and may make such order as to costs as may be just.

ORDER XVIII.—*Actions by and against Lunatics and Persons of Unsound Mind.*

In all cases in which lunatics and persons of unsound mind not so found by inquisition may in the High Court of Justice in England sue as plaintiffs or would be liable to be sued as

defendants in any action, they may respectively sue as plaintiffs in any action by their committee or next friend in manner practised in the said High Court, and may in like manner defend any action by their committees or guardians appointed for that purpose.

ORDER XIX.—*Pleading Generally.*

1. The following rules of pleading shall be substituted for those heretofore used.

2. Unless the defendant in an action at the time of his appearance states that he does not require the delivery of a statement of complaint, the plaintiff shall, within such time and in such manner as hereinafter prescribed, deliver to the defendant after his appearance a statement of his complaint and of the relief or remedy to which he claims to be entitled. The defendant shall within such time and in such manner as hereinafter prescribed deliver to the plaintiff a statement of his defence, set-off, or counter-claim (if any), and the plaintiff shall in like manner deliver a statement of his reply (if any) to such defence, set-off, or counter-claim. Such statements shall be as brief as the nature of the case will admit, and the Court in adjusting the costs of the action shall inquire at the instance of any party into any unnecessary prolixity, and order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

3. A defendant in an action may set-off, or set up, by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a statement of claim in a cross action, so as to enable the Court to pronounce a final judgment in the same action, both on the original and on the cross claim. But the Court or a Judge may, on the application of the plaintiff before trial, if in the opinion of the Court or Judge such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof.

4. Every pleading shall contain as concisely as may be a statement of the material facts on which the party pleading relies, but not the evidence by which they are to be proved, such statement being divided into paragraphs, numbered consecutively, and each paragraph containing, as nearly as may be, a separate allegation. Dates, sums, and numbers shall be expressed in figures and not in words. Signature of counsel shall not be necessary. Forms similar to those in Appendix (C) hereto may be used.

5. Every pleading may be either printed or written, or partly printed and partly written.

6. Every pleading or other document required to be delivered to a party, or between parties, shall be delivered in the manner in use in England to the solicitor of every party who appears by a solicitor, or to the party if he does not appear by a solicitor, but if no appear-

ance has been entered for any party, then such pleading or document shall be delivered by being filed with the Registrar.

7. Every pleading in an action shall be delivered between parties, and shall be marked on the face with the date of the day on which it is delivered, and with the reference to the letter and number of the action, the title of the action, the description of the pleading, and the name and place of business of the solicitor and agent, if any, delivering the same, or the name and address of the party delivering the same if he does not act by a solicitor.

8. Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and may also ask for general relief. And the same rule shall apply to any counter-claim made, or relief claimed by the defendant, in his statement of defence. If the plaintiff's claim be for discovery only the statement of claim shall show it.

9. Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly. And the same rule shall apply where the defendant relies upon several distinct grounds of defence, set-off, or counter-claim founded upon separate and distinct facts.

10. Where any defendant seeks to rely upon any facts as supporting a right of set-off or counter-claim, he shall, in his statement of defence, state specifically that he does so by way of set-off or counter-claim.

11. If either party wishes to deny the right of any other party to claim as executor, or as trustee whether in bankruptcy or otherwise, or in any representative or other alleged capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically.

12. In Probate actions where the plaintiff disputes the interest of the defendant, he shall allege in his statement of claim that he denies the defendant's interest.

13. No plea of defence shall be pleaded in abatement.

14. No new assignment shall hereafter be necessary or used. But everything which has heretofore been alleged by way of new assignment may hereafter be introduced by amendment of the statement of claim.

15. No defendant in an action for the recovery of land who is in possession by himself or his tenant need plead his title, unless his defence depends on an equitable estate or right, or he claims relief upon any equitable ground against any right or title asserted by the plaintiff. But, except in the cases herein-before mentioned, it shall be sufficient to state by way of defence that he is so in possession. And he may nevertheless rely upon any ground of defence which he can prove, except as herein-before mentioned.

16. Nothing in these Rules contained shall affect the right of any defendant to plead not guilty by statute. And every defence of not guilty by statute shall have the same effect as a plea of not guilty by statute has in the High Court of Justice in England.

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But if the defendant so plead he shall not plead any other defence without the leave of the Court or a Judge.

17. Every allegation of fact in any pleading in an action, not being a petition or summons, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted, except as against an infant, lunatic or person of unsound mind not so found by inquisition.

18. Each party in any pleading, not being a petition or summons, must allege all such facts not appearing in the previous pleadings as he means to rely on, and must raise all such grounds of defence or reply, as the case may be, as if not raised on the pleadings would be likely to take the opposite party by surprise, or would raise new issues of fact not arising out of the pleadings, as for instance, fraud, or that any claim has been barred by the Statute of Limitations or has been released.

19. No pleading, not being a petition or summons, shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

20. It shall not be sufficient for a defendant in his defence to deny generally the facts alleged by the statement of claim, or for a plaintiff in his reply to deny generally the facts alleged in a defence by way of counter-claim, but each party must deal specifically with each allegation of fact of which he does not admit the truth.

21. Subject to the last preceding Rule, the plaintiff by his reply may join issue upon the defence, and each party in his pleading, if any, subsequent to reply, may join issue upon the previous pleading. Such joinder of issue shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined, but it may except any facts which the party may be willing to admit, and shall then operate as a denial of the facts not so admitted.

22. When a party in any pleading denies an allegation of fact in the previous pleading of the opposite party, he must not do so evasively, but answer the point of substance. Thus, if it be alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And so when a matter of fact is alleged with divers circumstances, it shall not be sufficient to deny it as alleged along with those circumstances, but a fair and substantial answer must be given.

23. When a contract is alleged in any pleading, a bare denial of the contract by the opposite party shall be construed only as a denial of the making of the contract in fact, and not of its legality or its sufficiency in law, whether with reference to the statute of frauds or otherwise.

24. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as

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briefly as possible, without setting out the whole or any part thereof unless the precise words of the document or any part thereof are material.

25. Wherever it is material to allege malice, fraudulent intention, knowledge, or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

26. Wherever it is material to allege notice to any person of any fact, matter, or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice be material.

27. Wherever any contract or any relation between any persons does not arise from an express agreement, but is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations, or circumstances without setting them out in detail. And if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances, he may state the same in the alternative.

28. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied.

[E.g.—Consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim.]

ORDER XX.—*Pleading Matters arising pending the Action.*

1. Any ground of defence which has arisen after action brought, but before the defendant has delivered his statement of defence, and before the time limited for his doing so has expired, may be pleaded by the defendant in his statement of defence, either alone or together with other grounds of defence. And if, after a statement of defence has been delivered, any ground of defence arises to any set-off or counter-claim alleged therein by the defendant, it may be pleaded by the plaintiff in his reply, either alone or together with any other ground of reply.

2. Where any ground of defence arises after the defendant has delivered a statement of defence, or after the time limited for his doing so has expired, the defendant may, and where any ground of defence to any set-off or counter-claim arises after reply, or after the time limited for delivering a reply has expired, the plaintiff may, within eight days after such ground of defence has arisen, and by leave of the Court or a Judge, deliver a further defence or further reply, as the case may be, setting forth the same.

3. Whenever any defendant, in his statement of defence, or in any further statement of defence as in the last rules mentioned, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of

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such defence, which confession may be in the Form No. 2 in Appendix (B) hereto, with such variations as circumstances may require, and he may thereupon sign judgment for his costs up to the time of the pleading of such defence, unless the Court or a Judge shall, either before or after the delivery of such confession, otherwise order.

ORDER XXI.—*Statement of Claim.*

1. Subject to Rules 2 and 3 of this Order, the delivery of statements of claim shall be regulated as follows :—

- (a.) If the defendant does not state that he does not require the delivery of a statement of claim, the plaintiff shall, unless otherwise ordered by the Court or a Judge, deliver it within six weeks from the time of the defendant's entering his appearance.
- (b.) The plaintiff may, if he think fit, at any time after the issue of the writ of summons, deliver a statement of claim, with the writ of summons or notice in lieu of writ of summons or at any time afterwards, either before or after appearance, and although the defendant may have appeared and stated that he does not require the delivery of a statement of claim : Provided that in no case where a defendant has appeared shall a statement be delivered more than six weeks after the appearance has been entered unless otherwise ordered by the Court or a Judge.
- (c.) Where a plaintiff delivers a statement of claim without being required to do so, the Court or a Judge may make such order as to the costs occasioned thereby as may seem just, if it appears that the delivery of a statement of claim was unnecessary or improper.

2. In probate actions the plaintiff shall, unless otherwise ordered by the Court or a Judge, deliver his statement of claim within six weeks from the entry of appearance by the defendant, or from the time limited for his appearance, in case he has made default ; but where the defendant has appeared, the plaintiff shall not be compelled to deliver it until the expiration of eight days after the defendant has filed his affidavit as to scripts.

3. Where the writ is specially indorsed, and the defendant has not dispensed with a statement of claim, it shall be sufficient for the plaintiff to deliver as his statement of claim a notice to the effect that his claim is that which appears by the indorsement upon the writ, unless the Court or a Judge orders him to deliver a further statement. Such notice may be either written or printed or partly written and partly printed, and may be in the Form No. 3 in Appendix (B) hereto, and shall be marked on the face in the same manner as is required in the case of an ordinary statement of claim. And when the plaintiff is ordered to deliver such further statement it shall be delivered within such time as by such order shall be directed, and if no time be so limited, then within the time prescribed by Rule 1 of this order.

ORDER XXII.—*Defence.*

1. Where a statement of claim is delivered to a defendant he shall deliver his defence within eight days from the delivery of the statement of claim, or from the time limited for appearance, whichever is last, unless such time is extended by the Court or Judge.

2. A defendant who has appeared in an action and stated that he does not require the delivery of a statement of claim, and to whom a statement of claim is not delivered, may deliver a defence at any time within eight days after his appearance, unless such time is extended by the Court or a Judge.

3. Where leave has been given to a defendant to defend under Order XIV., Rule 1, he shall deliver his defence, if any, within such time as may be limited by the order giving him leave to defend, or if no time is thereby limited, then within eight days after the order.

4. Where the Court or a Judge is of opinion that any allegations of fact denied or not admitted by the defence ought to have been admitted, the Court may make such order as is just with respect to any extra costs occasioned by their having been denied or not admitted.

5. Where a defendant by his defence sets up any counter-claim which raises questions between himself and the plaintiff along with any other person or persons, he shall add to the title of his defence a further title similar to the title in a statement of complaint, setting forth the names of all the persons who, if such counter-claim were to be enforced by cross action would be defendants to such cross action, and shall deliver his defence to such of them as are parties to the action within the period within which he is required to deliver it to the plaintiff.

6. Where any such person as in the last preceding rule mentioned is not a party to the action, he shall be summoned to appear by being served with a copy of the defence, and such service shall be regulated by the same rules as are hereinbefore contained with respect to the service of a writ of summons, and every defence so served shall be indorsed in the Form No. 4 in Appendix (B) hereto, or to the like effect.

7. Any person not a defendant to the action, who is served with a defence and counter-claim as aforesaid, must appear thereto as if he had been served with a writ of summons to appear in an action.

8. Any person named in a defence as a party to a counter-claim thereby made may deliver a reply within the time within which he might deliver a defence if it were a statement of claim.

9. Where a defendant by his statement of defence sets up a counter-claim, if the plaintiff or any other person named in manner aforesaid as party to such counter-claim contends that the claim thereby raised ought not to be disposed of by way of counter-claim, but in an independent action, he may at any time before reply, apply to the Court or a Judge for an order that such

counter-claim may be excluded, and the Court or a Judge may, on the hearing of such application, make such order as is just.

10. Where in any action a set-off or counter claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

11. In probate actions the party opposing a will may, with his defence, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law, and only intends to cross-examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall be subject to the same liabilities in respect of costs as he would be under similar circumstances according to the practice of the High Court of Justice in England.

ORDER XXIII.—*Discontinuance.*

1. The plaintiff may, at any time before receipt of the defendant's statement of defence, or after the receipt thereof before taking any other proceedings in the action (save any interlocutory application), by notice in writing, wholly discontinue his action or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay the defendant's costs of the action, or, if the action be not wholly discontinued, the defendant's costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as in this rule otherwise provided, it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or a Judge, but the Court or a Judge may, before, or at, or after the hearing or trial, upon such terms as to costs, and as to any other action, and otherwise as may seem fit, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out. The Court or a Judge may, in like manner, and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counter-claim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence, or any part thereof, without such leave.

2. When a cause has been entered for trial, it may be withdrawn by either plaintiff or defendant, upon producing to the Registrar a consent in writing, signed by the parties.

3. A defendant may sign judgment for the costs of an action if it is wholly discontinued, or for the costs occasioned by the matter withdrawn, if the action is not wholly discontinued.

ORDER XXIV.—*Reply and Subsequent Pleadings.*

1. A plaintiff shall deliver his reply, if any, within three weeks after the defence or the last of the defences has been delivered, unless the time is extended by the Court or a Judge.

2. No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the Court or a Judge, and then upon such terms as the Court or Judge thinks fit.

3. Subject to the last preceding rule, every pleading subsequent to reply shall be delivered within four days after the delivery of the previous pleading, unless the time is extended by the Court or a Judge.

ORDER XXV.—*Close of Pleadings.*

As soon as either party has joined issue upon any pleading of the opposite party simply without adding any further or other pleading thereto, the pleadings as between such parties shall be deemed to be closed.

ORDER XXVI.—*Issues.*

Where in any action it appears to a Judge that a statement of claim or defence or reply does not sufficiently define the issues of fact in dispute between the parties, he may direct the parties to prepare issues, and such issues shall, if the parties differ, be settled by a Judge.

ORDER XXVII.—*Amendment of Pleadings.*

1. The Court or a Judge may, at any stage of the proceedings, allow either party to alter his statement of claim or defence or reply, or may order to be struck out or amended any matter in such statements respectively which may be scandalous, or which may tend to prejudice, embarrass, or delay the fair trial of the action, and all such amendments shall be made as may be necessary for the purposes of determining the real questions or question in controversy between the parties.

2. The plaintiff may, without any leave, amend his statement of claim once at any time before the expiration of the time limited for reply and before replying, or, where no defence is delivered, at any time before the expiration of four weeks from the appearance of the defendant who has last appeared.

3. A defendant who has set up in his defence any set-off or counter-claim may, without any leave, amend such set-off or counter-claim at any time before the expiration of the time allowed him for pleading to the reply, and before pleading thereto, or in case there be no reply, then at any time before the expiration of twenty-eight days from the filing of his defence.

4. Where any party has amended his pleading under either of the last two preceding rules, the opposite party may, within eight days after the delivery to him of the amended pleading, apply to the Court, or a Judge, to disallow the amendment, or any part thereof, and the Court or a Judge, may, if satisfied that the justice of the case requires it, disallow the same, or allow it subject to such terms as to costs or otherwise as may seem just.

5. Where any party has amended his pleading under Rule 2 or 3 of this order, the other party may apply to the Court or a Judge for leave to plead or amend his former pleading within such time and upon such terms as may seem just.

6. In all cases not provided for by the preceding rules of this order, application for leave to amend any pleading may be made by either party to the Court or a Judge in chambers, or to the Judge at the trial of the action, and such amendment may be allowed upon such terms as to costs or otherwise as may seem just.

7. If a party who has obtained an order for leave to amend a pleading delivered by him does not amend the same within the time limited for that purpose by the order, or if no time is thereby limited, then within fourteen days from the date of the order, such order to amend shall, on the expiration of such limited time as aforesaid, or of such fourteen days, as the case may be, become ipso facto void, unless the time is extended by the Court or a Judge.

8. A pleading may be amended by written alterations in the pleading which has been delivered, and by additions on paper to be interleaved therewith if necessary, unless the amendments require the insertion of more than 144 words in any one place, or are so numerous or of such a nature that the making them in writing would render the pleading difficult or inconvenient to read, in either of which cases the amendment must be made by delivering a new copy of the pleading as amended.

9. Whenever any pleading is amended, such pleading when amended shall be marked with the date of the order, if any, under which the same is so amended, and of the day on which such amendment is made, in manner following, viz.: "Amended day of . . ."

10. Whenever a pleading is amended, such amended pleading shall be delivered to the opposite party within the time allowed for amending the same.

11. The Court or a Judge, may, at any stage of the proceedings, allow the plaintiff to amend the writ of summons in such manner and on such terms, as may seem just.

ORDER XXVIII.--*Demurrer.*

1. Any party may demur to any pleading of the opposite party, or to any part of a pleading setting up a distinct cause of action, ground of defence, set-off, counter-claim, reply, or as the case may be, on the ground that the facts alleged therein do not show any cause of action, or ground of defence to a claim or any part thereof, or set off, or counter-claim, or reply, or as the case may be, to which effect can be given by the Court as against the party demurring.

2. A demurrer shall state specifically whether it is to the whole or to a part, and if so, to what part, of the pleading of the opposite

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party. It shall state some ground in law for the demurrer, but the party demurring shall not, on the argument of the demurrer, be limited to the ground so stated. A demurrer may be in the Form 23 in Appendix (C) hereto. If there is no ground, or only a frivolous ground of demurrer stated, the Court or a Judge may set aside such demurrer with costs.

3. A demurrer shall be delivered in the same manner and within the same time as any other pleading in the action.

4. A defendant desiring to demur to part of a statement of claim, and to put in a defence to the other part, shall combine such demurrer and defence in one pleading. And so in every case where a party entitled to put in a further pleading desires to demur to part of the last pleading of the opposite party he shall combine such demurrer and other pleading.

5. If the party demurring desires to be at liberty to plead as well as demur to the matter demurred to, he may, before demurring, apply to the Court or a Judge for an order giving him leave to do so; and the Court or Judge, if satisfied that there is reasonable ground for the demurrer, may make an order accordingly, or may reserve leave to him to plead after the demurrer is overruled, or may make such other order and upon such terms as may be just.

6. When a demurrer either to the whole or part of a pleading is delivered, either party may enter the demurrer for argument immediately, and the party so entering such demurrer shall on the same day give notice thereof to the other party. If the demurrer is not entered and notice thereof given within ten days after delivery, and if the party whose pleading is demurred to does not within such time serve an order for leave to amend, the demurrer shall be held sufficient for the same purposes and with the same result as to costs as if it had been allowed on argument.

7. While a demurrer to the whole or any part of a pleading is pending, such pleading shall not be amended, unless by order of the Court or a Judge; and no such order shall be made except on payment of the costs of the demurrer.

8. Where a demurrer to the whole or part of any pleading is allowed upon argument, the party whose pleading is demurred to shall, unless the Court otherwise order, pay to the demurring party the costs of the demurrer.

9. If a demurrer to the whole of a statement of claim be allowed, the plaintiff, subject to the power of the Court to allow the statement of claim to be amended, shall pay to the demurring defendant the costs of the action, unless the Court otherwise orders.

10. Where a demurrer to any pleading or part of a pleading is allowed in any case not falling within the last preceding rule, then (subject to the power of the Court to allow an amendment) the matter demurred to shall as between the parties to the demurrer be deemed to be struck out of the pleadings, and the rights of the parties shall be the same as if it had not been pleaded.

11. Where a demurrer is overruled the demurring party shall

pay to the opposite party the costs occasioned by the demurrer, unless the Court otherwise directs.

12. Where a demurrer is overruled, the Court may make such order and upon such terms as the Court shall seem right for allowing the demurring party to raise by pleading any case he may be desirous to set up in opposition to the matter demurred to.

13. A demurrer shall be entered for argument by delivering to the Registrar a memorandum of entry in the Form No. 24 in Appendix (C).

ORDER XXIX.—*Default of Pleading.*

1. If the plaintiff, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of that time, apply to the Court or a Judge to dismiss the action with costs, for want of prosecution; and on the hearing of such application the Court or Judge may, if no statement of claim have been delivered, order the action to be dismissed accordingly, or may make such other order on such terms as to the Court or Judge seem just.

2. If the plaintiff's claim be only for a debt or liquidated demand, and the defendant does not, within the time allowed for that purpose, deliver a defence or demurrer, the plaintiff may, at the expiration of such time, enter final judgment for the amount claimed, with costs.

3. When in any such action as in the last preceding rule mentioned there are several defendants, if one of them make default as mentioned in the last preceding rule, the plaintiff may enter final judgment against the defendant so making default, and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants.

4. If the plaintiff's claim be for detention of goods and pecuniary damages, or either of them, and the defendant makes default as mentioned in Rule 2, the plaintiff may enter an interlocutory judgment against the defendant, and a writ of inquiry shall issue to assess the value of the goods, and the damages, or the damages only, as the case may be. But the Court or a Judge may order that, instead of a writ of inquiry, the value and amount of damages, or either of them, shall be ascertained in any way in which any question arising in an action may be tried.

5. When in any such action as in Rule 4 mentioned there are several defendants, if one of them make default as mentioned in Rule 2, the plaintiff may enter an interlocutory judgment against the defendant so making default, and proceed with his action against the others. And in such case, damages against the defendant making default shall be assessed at the same time with the trial of the action or issues therein against the other defendants, unless the Court or a Judge otherwise directs.

6. If the plaintiff's claim be for a debt or liquidated demand,

and also for detention of goods and pecuniary damages, or pecuniary damages only, and the defendant makes default as mentioned in Rule 2, the plaintiff may enter final judgment for the debt or liquidated demand, and also enter interlocutory judgment for the value of the goods and the damages, or the damages only, as the case may be, and proceed as mentioned in Rule 4.

7. In an action for the recovery of land, if the defendant makes default as mentioned in Rule 2, the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons recover possession of the land, with his costs.

8. Where the plaintiff has endorsed a claim for mesne profits, arrears of rent, or damages for breach of contract upon a writ for the recovery of land, if the defendant makes default as mentioned in Rule 2, or if there be more than one defendant and some or one of the defendants make such default, the plaintiff may enter judgment against the defaulting defendant or defendants and proceed as mentioned in Rules 4 and 5.

9. In probate actions, if any defendant make default in filing and delivering a defence or demurrer, the action may proceed, notwithstanding such default.

10. In all other actions than those in the preceding Rules of this Order mentioned, if the defendant makes default in delivering a defence or demurrer, the plaintiff may give notice of trial or may set down the action on the motion for judgment. If the action is set down on motion for judgment, such judgment shall be given as upon the statement of claim the Court considers the plaintiff to be entitled to.

11. Where, in any such action as mentioned in the last preceding rule, there are several defendants, then, if one of such defendants make such default as aforesaid the plaintiff may at once either give notice of trial or set down the action on motion for judgment against the defendant so making default, or may set it down against him at the time when it is entered for trial, or set down on motion for judgment against the other defendants.

12. If the plaintiff does not deliver a reply or demurrer, or any party does not deliver any subsequent pleading, or a demurrer, within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and the statements of fact in the pleading last delivered shall be deemed to be admitted.

13. In any case in which issues arise in an action other than between plaintiff and defendant, if any party to any such issue makes default in delivering any pleading, the opposite party may apply to the Court or a Judge for such judgment, if any, as upon the pleadings he may appear to be entitled to. And the Court may order judgment to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties.

14. Any judgment by default, whether under this order or under any other of these rules, may be set aside by the Court or

the propriety of exhibiting such interrogatories, and if it is the opinion of the Court or Judge that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

3. Interrogatories may be in the Form No. 7 in Appendix (B) hereto, with such variations as circumstances may require.

4. If any party to an action be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply at chambers for an order allowing him to deliver interrogatories to any member or officer of such corporation, company, or body, and an order may be made accordingly.

5. Any party called upon to answer interrogatories, whether by himself or by any member or officer, may, within four days after service of the interrogatories, apply to the Court or a Judge to strike out any interrogatory, on the ground that it is scandalous or irrelevant, or is not put bonâ fide for the purposes of the action, or that the matter inquired after is not sufficiently material at that stage of the action, or on any other ground. And the Court or Judge, if satisfied that any interrogatory is objectionable, may order it to be struck out.

6. Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as a Judge may allow.

7. An affidavit in answer to interrogatories may be in the Form No. 8 in Appendix (B) hereto, with such variations as circumstances may require.

8. Any objection to answering any interrogatory may be taken, and the ground thereof stated in the affidavit.

9. No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court or a Judge on motion or summons.

10. If any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court or a Judge for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or answer further either by affidavit or by vivâ voce examination, as the Court or Judge may direct.

11. It shall be lawful for the Court or a Judge at any time during the pendency therein of any action or proceeding, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such action or proceeding, as the Court or Judge thinks right; and the Court may deal with such documents, when produced, in such manner as appears just.

12. Any party may, without filing any affidavit, apply to a judge for an order directing any other party to the action to

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make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question in the action.

13. The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made, shall specify which, if any, of the documents therein mentioned, he objects to produce, and it may be in the Form No. 9 in Appendix (B) hereto, with such variations as circumstances may require.

14. Every party to an action or other proceeding shall be entitled, at any time before or at the hearing thereof, by notice in writing, to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his solicitor, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or proceeding, unless he satisfies the Court that such document relates only to his own title, he being a defendant to the action, or that he had some other sufficient cause for not complying with such notice.

15. Notice to any party to produce any documents referred to in his pleading or affidavits shall be in the Form No. 10 in Appendix (B) hereto.

16. The party to whom such notice is given shall, within two days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in Rule 13, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at some specified place, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice may be in the Form No. 11 in Appendix (B) hereto, with such variations as circumstances may require.

17. If the party served with notice under Rule 14 omits to give such notice of a time for inspection, or objects to give inspection, the party desiring it may apply to a Judge for an order for inspection.

18. Every application for an order for inspection of documents shall be to a Judge. And except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party.

19. If the party from whom discovery of any kind or inspection

is sought objects to the same, or any part thereof, the Court or a Judge may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action, or that for any other reason it is desirable that any issue or question in dispute in the action should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

20. If any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall be liable to attachment. He shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating may apply to the Court or a Judge for an order to that effect, and an order may be made accordingly.

21. Service of an order for discovery or inspection made against any party on his solicitor shall be sufficient service to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order.

22. A solicitor upon whom an order against any party for discovery or inspection is served under the last rule, who neglects without reasonable excuse to give notice thereof to his client, shall be liable to attachment.

23. Any party may, at the trial of an action or issue, use in evidence any one or more of the answers of the opposite party to interrogatories without putting in the others: Provided always, that in such case the Judge may look at the whole of the answers, and if he is of opinion that any other of them are so connected with those put in that the last-mentioned answers ought not to be used without them, he may direct them to be put in.

ORDER XXXII.—*Admissions.*

1. Any party to an action may give notice, by his own statement or otherwise, that he admits the truth of the whole or any part of the case stated or referred to in the statement of claim, defence, or reply of any other party.

2. Either party may call upon the other party to admit any document, saving all just exceptions: and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the action may be, unless at the hearing or trial the Court certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is in the opinion of the Judge taxing the costs a saving of expense.

3. A notice to admit documents may be in the Form No. 12 in Appendix (B) hereto.

4. An affidavit of the solicitor or his clerk, of the due signature

of any admissions made in pursuance of any notice to admit documents, and annexed to the affidavit, shall be sufficient evidence of such admissions.

ORDER XXXIII.—*Inquiries and Accounts.*

1. The Court or a Judge may, at any stage of the proceedings in a cause or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought for or some special issue to be tried, as to which it may be proper that the cause or matter, should proceed in the ordinary manner.

2. It shall be lawful for the Court, in any case where any account is required to be taken, to give such special directions, if any, as it may think fit with respect to the mode in which the account should be taken or vouched, and such special directions may be given, either by the judgment or order directing such account, or by any subsequent order or orders, upon its appearing to the Court that the circumstances of the case are such as to require such special directions; and particularly it shall be lawful for the Court, in cases where it thinks fit so to do, to direct that in taking the account the books of account in which the accounts required to be taken have been kept, or any of them shall be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.

ORDER XXXIV.—*Questions of Law.*

1. The parties may, after the writ of summons has been issued, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby and shall be signed by the parties or their respective solicitors. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated in any such special case any reference, whether of fact or law, which might have been drawn therefrom if proved at a trial.

2. If it appear to the Court or a Judge, either from the statement of claim or defence or reply or otherwise, that there is in any action a question of law, which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, or before any reference is made to an arbitrator, the Court or Judge may make an order accordingly, and may direct such question of law to be raised for the opinion of the Court, either by special case or in such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed.

4. No special case in an action to which a married woman, infant, or person of unsound mind is a party shall be set down for argument without leave of the Court or a Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such married woman, infant, or person of unsound mind, are true.

5. Either party may enter a special case for argument by delivering to the Registrar a memorandum of entry, in the Form No. 13 in Appendix (B) hereto, and also if any married woman, infant, or person of unsound mind be a party to the action, producing a copy of the order giving leave to enter the same for argument.

ORDER XXXVI.—*Trial.*

1. Any action may be tried at San Fernando if the Court or a Judge so order, but if no such order is made shall be tried in Port of Spain. Any order of a Judge, directing a trial at San Fernando, may be discharged or varied by a full Court.

2. Where an action is tried at San Fernando by virtue of an order made under the last preceding rule, the action shall nevertheless proceed in the registry at Port of Spain, but all orders made and proceedings had in the Court at San Fernando shall be entered upon the record by the sub-registrar at San Fernando.

3. Actions shall be tried and heard either before a Judge or Judges, or before a Judge and Jury.

4. Subject to the provisions of the following rules, the plaintiff may, with his reply, or at any time after the close of the pleadings, give notice of trial of the action, and thereby specify one of the modes mentioned in rule 3.

5. Subject to the provisions of the following rules, if the plaintiff does not within six weeks after the close of the pleadings, or within such extended time as the Court or a Judge may allow, give notice of trial, the defendant may, before notice of trial given by the plaintiff, give notice of trial, and thereby specify one of the modes mentioned in Rule 3.

6. Any party to whom notice of trial is given may move the Court to appoint a different mode of trial from that specified in the notice of trial, upon giving notice of motion within four days from the time of the service of the notice of trial or within such extended time as the Court or a Judge may allow. The motion must be made on the first day after the expiration of the said four days or of such extended time as aforesaid on which the Court sits to hear motions, or on such subsequent day as the Court or a Judge may allow.

7. Where under any of these rules an action is tried before a Judge and jury, and the jury are discharged in consequence of their being unable to agree upon a verdict, the full Court may, upon motion, whereof notice must be given within eight days from the time when the jury are discharged or within such ex-

tended time as the Court or a Judge may allow and which must be made on the first day after the expiration of the said eight days or of such extended time as aforesaid on which the Court sits to hear motions, or on such subsequent day as the Court or a Judge may allow, order that the action be tried before a Judge or Judges.

8. The defendant, instead of giving notice of trial, may apply to the Court or a Judge to dismiss the action for want of prosecution; and on the hearing of such application, the Court or a Judge may order the action to be dismissed accordingly, or may make such other order, and on such terms, as to the Court or a Judge may seem just.

9. Subject to the provisions of the preceding rules, the Court or a Judge may, in any action at any time or from time to time, order that different questions of fact arising therein be tried by different modes of trial, or that one or more questions of fact be tried before the others, and may appoint the place or places for such trial or trials, and in all cases may order that one or more issues of fact be tried before any other or others.

10. Notice of trial shall state whether it is for the trial of the action or of issues therein. It may be in the Form No. 14 in Appendix (B), with such variations as circumstances may require.

11. Ten days notice of trial shall be given, unless the party to whom it is given has consented to take short notice of trial; and shall be sufficient in all cases, unless otherwise ordered by the Court or a Judge. Short notice of trial shall be four days notice.

12. Notice of trial shall be given before entering the action for trial. Unless within six days after notice of trial is given, the cause is entered for trial by one party or the other, the notice of trial shall be no longer in force.

13. Notice of trial shall not be or operate as for any particular sittings; but shall be deemed to be for any day after the expiration of the notice on which the action may come on for trial in its order upon the list.

14. No notice of trial shall be countermanded, except by consent, or by leave of the Court or a Judge, which leave may be given subject to such terms as to costs, or otherwise, as may be just.

15. If the party giving notice of trial omits to enter the action for trial on the day of or day after giving notice of trial, the party to whom notice has been given may, unless the notice has been countermanded under the last rule, within four days enter the action for trial.

16. The party entering the action for trial shall deliver to the Registrar two copies of the whole of the pleadings in the action, one of which shall be for the use of the Judge at the trial.

17. If, when an action is called on for trial, the plaintiff appears, and the defendant does not appear, then the plaintiff may prove his claim, so far as the burden of proof lies upon him.

18. If, when an action is called on for trial, the defendant

appears, and the plaintiff does not appear, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim, then he may prove such claim so far as the burden of proof lies upon him.

19. Any verdict or judgment obtained where one party does not appear at the trial may be set aside by the Court or a Judge upon such terms as may seem fit, upon an application made within six days after the trial.

20. The Judge may, if he think it expedient for the interests of justice, postpone or adjourn the trial for such time, and upon such terms, if any, as he thinks fit.

21. Upon the trial of an action the Judge may, at or after the trial, direct that judgment be entered for any or either party, or adjourn the case for further consideration, or leave any party to move for judgment. No judgment shall be entered after a trial without the order of a Court or Judge.

22. The Court or a Judge may, if it appears either before or at the trial that any issue of fact can be more conveniently tried before a jury, direct that such issue be tried by a Judge with a jury.

23. In any cause the Court or a Judge may, at any time or from time to time, order the trial and determination of any question or issue of fact, or partly of fact and partly of law, at the sittings at San Fernando, and such question or issue shall be tried and determined accordingly.

ORDER XXXVII.—*Evidence generally.*

1. In the absence of any agreement between the parties, and subject to these rules, the witnesses at the trial of any action or at any assessment of damages, shall be examined *vidæ voce* and in open court, but the Court or a Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or a Judge may think reasonable, or that any witness whose attendance in court ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a commissioner or examiner; provided that where it appears to the Court or Judge that the other party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

2. Upon any motion, petition, or summons evidence may be given by affidavit; but the Court or a Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

3. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted. The cost of every affidavit which

unnecessarily sets forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

4. The Court or a Judge may, in any cause or matter where it appears necessary for the purposes of justice, make any order for the examination upon oath before any officer of the Court, or any other person or persons, and at any place, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms, if any, as the Court or a Judge may direct.

ORDER XXXVIII.—*Evidence by Affidavit.*

1. Within fourteen days after a consent for taking evidence by affidavit as between the plaintiff and the defendant has been given, or within such time as the parties may agree upon, or a Judge may allow, the plaintiff shall file his affidavits and deliver to the defendant or his solicitor a list thereof.

2. The defendant within fourteen days after delivery of such list, or within such time as the parties may agree upon, or a Judge may allow, shall file his affidavits and deliver to the plaintiff or his solicitor a list thereof.

3. Within seven days after the expiration of the said fourteen days, or such other time as aforesaid, the plaintiff shall file his affidavits in reply, which affidavits shall be confined to matters strictly in reply, and shall deliver to the defendant or his solicitor a list thereof.

4. When the evidence is taken by affidavit, any party desiring to cross-examine a deponent who has made an affidavit filed on behalf of the opposite party, may serve upon the party by whom such affidavit has been filed, a notice in writing, requiring the production of the deponent for cross-examination before the Court at the trial, such notice to be served at any time before the expiration of fourteen days next after the end of the time allowed for filing affidavits in reply, or within such time as in any case the Court or a Judge may specially appoint; and unless such deponent is produced accordingly, his affidavit shall not be used as evidence unless by the special leave of the Court. The party producing such deponent for cross-examination shall not be entitled to demand the expenses thereof in the first instance from the party requiring such production.

5. The party to whom such notice as is mentioned in the last preceding rule is given, shall be entitled to compel the attendance of the deponent for cross-examination in the same way as he might compel the attendance of a witness to be examined.

6. When the evidence in any action is under this order taken by affidavit, the notice of trial shall be given at the same time or times after the close of the evidence as in other cases is by these rules provided after the close of the pleadings.

ORDER XXXIX.—*Motion for New Trial.*

1. A party desirous of obtaining a new trial of any cause on which a verdict has been found by a jury, or by a Judge without a jury, must apply for the same to a full Court by motion for an order calling upon the opposite party to show cause *at the expiration of eight days from the date of the order*, or so soon after as the case can be heard, why a new trial should not be directed. Such motion shall be made *within four days after the trial*, if the full Court is then sitting, or on the first subsequent day on which the full Court actually sits to hear motions, or within such extended time as the Court or a Judge may allow.

2. A copy of such order shall be served on the opposite party within four days from the time of the same being made.

3. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, unless in the opinion of the full Court some substantial wrong or miscarriage has been thereby occasioned in the trial of the action; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, the Court may give final judgment as to part thereof, and direct a new trial as to the other part only.

4. A new trial may be ordered on any question in an action, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question.

5. An order to show cause shall be a stay of proceedings in the action, unless the Court order that it shall not be so as to the whole or any part of the action.

ORDER XL.—*Motion for Judgment.*

1. Except where by the Ordinance or by these rules it is provided that judgment may be obtained in any other manner, the judgment of the Court shall be obtained by motion for judgment.

2. Where at the trial of an action the Judge abstains from directing any judgment to be entered, the plaintiff may set down the action on motion for judgment. If he does not so set it down and give notice thereof to the other parties within ten days after the trial, any defendant may set down the action on motion for judgment, and give notice thereof to the other parties.

3. Where, at or after the trial of an action by a jury, the Judge has directed that any judgment be entered, any party may, without any leave reserved, apply to set aside such judgment and enter any other judgment, on the ground that the judgment directed to be entered is wrong by reason of the Judge having caused the finding to be wrongly entered with reference to the finding of the Jury upon the question or questions submitted to them.

Where, at or after the trial of an action before a Judge, the Judge has directed that any judgment be entered, any party may, without

any leave reserved, apply to set aside such judgment and to enter any other judgment, upon the ground that, upon the finding as entered, the judgment so directed is wrong.

An application under this rule shall be to the full Court.

4. Where issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, the plaintiff may set down the action on motion for judgment as soon as such issues or questions have been determined. If he does not so set it down, and give notice thereof to the other parties within ten days after his right so to do has arisen, then after the expiration of such ten days any defendant may set down the action on motion for judgment, and give notice thereof to the other parties.

5. Where issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, and some only of such issues or questions of fact have been tried or determined any party who considers that the result of such trial or determination renders the trial or determination or the others of them unnecessary, or renders it desirable that the trial or determination thereof should be postponed, may apply to the Court or a Judge for leave to set down the action on motion for judgment, without waiting for such trial or determination. And the Court or Judge may, if satisfied of the expediency thereof, give such leave, upon such terms, if any, as appear just, and may give any directions which may appear desirable as to postponing the trial of the other questions of fact.

6. No action shall, except by leave of the Court or a Judge, be set down on motion for judgment after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do.

7. Upon a motion for judgment, or for a new trial, the Court may, if satisfied that it has before it all the materials necessary for finally determining the questions in dispute, or any of them, or for awarding any relief sought, give judgment accordingly, or may, if it is of opinion that it has not sufficient materials before it to enable it to give judgment, direct the motion to stand over for further consideration, and direct such issues or questions to be tried or determined, and such accounts and inquiries to be taken and made as it may think fit.

8. Any party to an action may at any stage thereof apply to the Court or a Judge for such order as he may, upon any admissions of fact in the pleadings, be entitled to, without waiting for the determination of any other question between the parties. The foregoing rules of this order shall not apply to such applications, but any such application may be made by motion, so soon as the right of the party applying to the relief claimed has appeared from the pleadings. The Court or a Judge may, on any such application, give such relief, subject to such terms, if any, as such Court or Judge may think fit.

ORDER XLI.—*Entry of Judgment.*

1. Every judgment shall be entered by the Registrar. The party entering the judgment shall deliver to the Registrar a copy of the whole of the pleadings in the action other than any petition or summons: Provided that no copy need be delivered of any pleading a copy of which has been delivered on entering any previous judgment in such action. The forms in Appendix (D) hereto may be used, with such variations as circumstances may require.

2. Where any judgment is pronounced by the Court or a Judge in Court, the entry of the judgment shall be dated as of the day on which such judgment is pronounced, and the judgment shall take effect from that date.

3. In all cases not within the last preceding rule, the entry of judgment shall be dated as of the day on which the requisite documents are left with the Registrar for the purpose of such entry, and the judgment shall take effect from that date.

4. Where under the Ordinance or these rules, or otherwise, it is provided that any judgment may be entered or signed upon the filing of any affidavit or production of any document, the Registrar shall examine the affidavit or document produced, and if the same be regular and contain all that is by law required he shall enter judgment accordingly.

5. Where by the Ordinance or these rules, or otherwise, any judgment may be entered pursuant to any order or certificate, or return to any writ, the production of such order or certificate sealed with the seal of the Court, or of such return, shall be a sufficient authority to the Registrar to enter judgment accordingly.

6. Any judgment of nonsuit, unless the Court or a Judge otherwise direct, shall have the same effect as a judgment upon the merits for the defendant; but in any case of mistake, surprise, or accident any judgment of nonsuit may be set aside on such terms, as to payment of costs and otherwise, as to the Court or a Judge seems just.

7. In all judgments for the payment of money, the Court may, for any sufficient reason, order that the amount shall be paid by instalments with or without interest.

8. Judgment by confession or by consent of parties may be entered up at any time. In every such case a memorandum of such confession or consent, and of the particulars of the judgment to be entered, shall be signed by the parties in the presence of the Registrar and filed in Court.

9. Where application is made to the Registrar to enter up judgment by default, the party applying shall file in Court an office copy of the order for leave to enter up judgment, or, in cases where no such order is required, an affidavit setting out the facts entitling him to enter up judgment as aforesaid.

10. Where judgment has been recovered in any Court of Her Majesty's dominions out of this Colony, the judgment-creditor

may apply to a Judge in Chambers for an order that such judgment be made a judgment of the Supreme Court, and the Judge upon proof of the judgment and of service or substituted service upon the judgment-debtor of a summons to show cause why the application should not be granted, and upon an affidavit showing that the judgment-debtor was heard or had an opportunity of being heard on the merits in opposition to the judgment, may order that the judgment shall as from the date of the order stand as a judgment of the Supreme Court as against such judgment-debtor.

ORDER XLII.—*Execution.*

1. Subject to the provisions of these rules, a judgment for the recovery by or payment to any person of money may be enforced by writ of *fiery facias* or extent, or by writ of attachment against debts due or accruing due to the judgment-debtor from a third person or against the property of the judgment-debtor, not being lands or any interest in lands, in the custody or under the control of a third person, or by proceedings to enforce the charge on lands, tenements, rents and hereditaments given by the Ordinance No. 19 of 1845, intituled "An Ordinance for improving the Remedies of Creditors against the Property of their Debtors," or by proceedings to enforce a charging order granted under the same Ordinance, or, in cases where imprisonment for default in payment of money is allowed by law, by writ of attachment or such other proceedings against the person of the judgment-debtor as may be permitted by or had under any Ordinance or Ordinances for the time being in force relating to the imprisonment of debtors.

2. Where a judgment for the recovery by or payment to any person of money remains wholly or in part unsatisfied (whether any proceedings to enforce such judgment have been taken or not) the judgment-creditor may apply to the Court for a summons requiring the judgment-debtor to appear and be examined respecting his ability to make the payment directed, and the Court shall, unless it sees good reason to the contrary, issue such a summons.

3. In case it appears to the Court that there is probable cause to believe that the judgment-debtor is about to leave the Colony or in case he does not appear in obedience to such summons, the Court may in its discretion issue a warrant for the personal arrest of the judgment-debtor and for his safe custody until the day appointed for his examination, when he shall be brought before the Court under the said warrant, unless sooner discharged by order of the Court.

4. On the appearance of the judgment-debtor before the Court, in obedience to such summons or under such warrant as aforesaid, he may be examined on oath by or on behalf of the judgment-creditor and by the Court respecting his ability to pay the money directed to be paid, and for the discovery of debts due to him and other property whether in the custody or under the control of the

judgment-debtor or any other person applicable to such payment and as to the disposal which he may have made of any such debts or property, and he shall be bound to produce on oath, or otherwise, all books, papers, and documents in his possession or power relating to all such debts and property as aforesaid.

5. Whether the judgment-debtor appears or not, the judgment-creditor, and all other witnesses whom the Court thinks requisite, may be examined on oath, or otherwise, respecting the matters aforesaid.

6. The Court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment-debtor such security for his appearance at the adjourned hearing as seems fit, and in default of his finding security, may order that he be detained in custody until the adjourned hearing, and issue a warrant accordingly, or may discharge him from custody.

7. The Court may, upon such investigation as aforesaid, make any interim order for the protection of any property applicable or available in discharge of the judgment, as it thinks expedient.

8. At the close of the investigation the judgment-debtor, if still in custody under any such warrant as aforesaid, shall be discharged from custody under such warrant.

9. A judgment for the payment of money into Court may be enforced by writ of sequestration, or in cases in which attachment is authorised by law, by attachment.

10. A judgment for the recovery or for the delivery of the possession of lands may be enforced by writ of possession.

11. A judgment for the recovery of property other than lands or money may be enforced

By writ for delivery of the property :

By writ of attachment :

By writ of sequestration.

12. A judgment requiring any person to do any act other than the payment of money, or to abstain from doing anything, may be enforced by writ of attachment, or by committal.

13. In these rules the term "writ of execution" shall include the writs of *feri facias*, *capias*, extent, sequestration, and attachment, and all subsequent writs that may issue for giving effect thereto. And the term "issuing execution against any party," shall mean the issuing of any such process against his person or property as under the preceding rules of this order are applicable to the case.

14. Where a judgment is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the Court or a Judge for leave to issue execution against such party. And the Court or Judge may, if satisfied that the right to relief has arisen according to the terms of the judgment, order that execution issue accordingly, or may direct that any issue or question necessary for the

determination of the rights of the parties be tried in any of the ways in which questions arising in an action may be tried.

15. Where a judgment is against partners in the name of the firm, execution may issue in manner following:

- (a.) Against any property of the partners as such:
- (b.) Against any person who has admitted in the pleadings that he is, or has been adjudged to be a partner:
- (c.) Against any person who has been served, as a partner, with the writ of summons, and has failed to appear.

If the party who has obtained judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court or a Judge for leave to do so; and the Court or Judge may give such leave if the liability be not disputed, or if such liability be disputed, may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined.

16. No writ of execution shall be issued without the production to the Registrar of the judgment upon which the writ of execution is to issue, or an office copy thereof, showing the date of entry. And the Registrar shall be satisfied that the proper time has elapsed to entitle the judgment-creditor to execution.

17. No writ of execution shall be issued without the party issuing it, or his solicitor, filing a præcipe for that purpose. The præcipe shall contain the title of the action, the reference to the record, the date of the judgment, and of the order, if any, directing the execution to be issued, the names of the parties against whom or of the firms against whose goods the execution is to be issued; and shall be signed by or on behalf of the solicitor of the party issuing it, or by the party issuing it, if he do so in person. The forms in Appendix (E) hereto may be used, with such variations as circumstances may require.

18. Every writ of execution shall be indorsed with the name and place of abode or office of business of the solicitor actually suing out the same, and when the solicitor actually suing out the writ sues out the same as agent for another solicitor, the name and place of abode of such other solicitor shall also be indorsed upon the writ; and in case no solicitor is employed to issue the writ, then it shall be endorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the town, or ward, and also the name of the street, and number of the house of such plaintiff's or defendant's residence, if any such there be.

19. Every writ of execution shall bear date of the day on which it is issued. The forms in Appendix (F) hereto may be used, with such variations as circumstances may require.

20. In every case of execution the party entitled to execution may levy the poundage, fees, and expenses of execution, over and above the sum recovered.

21. Every writ of execution for the recovery of money shall be

indorsed with a direction to the marshal, to levy the money really due and payable and sought to be recovered under the judgment, stating the amount, and also to levy interest thereon, if sought to be recovered, at the rate of £6 per cent. per annum from the time when the judgment was entered up, provided that in cases where there is an agreement between the parties that more than £6 per cent. interest shall be secured by the judgment, then the indorsement may be accordingly to levy the amount of interest so agreed.

22. Every person to whom any sum of money or any costs are payable under a judgment, shall immediately after the time when the judgment was duly entered, be entitled to sue out one or more writ or writs of *feri facias* or one or more writ or writs of extent to enforce payment thereof, subject nevertheless as follows :

(a.) If the judgment is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period.

(b.) The Court or Judge at the time of giving judgment, or the Court or a Judge afterwards, may give leave to issue execution before, or may stay execution until any time after, the expiration of the periods hereinbefore prescribed.

23. A writ of execution if unexecuted shall remain in force for one year only from its issue, unless renewed in the manner herein-after provided ; but such writ may, at any time before its expiration, by leave of the Court or a Judge, be renewed, by the party issuing it, for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, either by being marked with a seal of the Court bearing the date of the day, month and year of such renewal, or by such party giving a written notice of renewal, to the marshal, signed by the party or his solicitor, and bearing the like seal of the Court ; and a writ of execution so renewed shall have effect, and be entitled to priority, according to the time of the original delivery thereof.

24. The production of a writ of execution, or of the notice renewing the same, purporting to be marked with such seal as in the last preceding rule mentioned, showing the same to have been renewed, shall be sufficient evidence of its having been so renewed.

25. As between the original parties to a judgment, execution may issue at any time within six years from the recovery of the judgment.

26. Where six years have elapsed since the judgment, or any change has taken place by death or otherwise in the parties entitled or liable to execution, the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly, and such Court or Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties be tried in

any of the ways in which any question in an action may be tried. And in either case such Court or Judge may impose such terms as to costs or otherwise, as seem just.

27. Every order of the Court or a Judge, whether in an action, cause, or matter, may be enforced in the same manner as a judgment to the same effect.

28. In cases other than those mentioned in Rule 26, any person not being a party in an action, who obtains any order or in whose favour any order is made, shall be entitled to enforce obedience to such order by the same process as if he were a party to the action; and any person not being a party in an action, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party to the action.

29. No proceeding by *audita querela* shall be used; but any party against whom judgment has been given may apply to the Court or a Judge for a stay of execution or other relief against such judgment, upon the ground of facts which have arisen too late to be pleaded; and the Court or Judge may give such relief and upon such terms as may be just.

30. Nothing in any of the Rules of this Order shall take away or curtail any right heretofore existing to enforce or give effect to any judgment or order in any manner or against any person or property whatsoever.

31. Nothing in this Order shall affect the order in which writs of execution may be issued.

ORDER XLIII.—*Writs of Fieri Facias and Extent.*

1. Writs of *feri facias* and of extent shall have the same force and effect as the like writs have heretofore had, and shall be executed in the same manner in which the like writs have heretofore been executed.

2. A writ of *venditioni exponas*, and all other writs in aid of a writ of *feri facias* or of extent, may be issued and executed in the same cases and in the same manner as heretofore.

ORDER XLIV.—*Attachment.*

1. A writ of attachment against the person shall have the same effect as such a writ of attachment issued out of the High Court of Justice in England.

2. No such writ of attachment shall be issued without the leave of the Court or a Judge, to be applied for on notice to the party against whom the attachment is to be issued.

ORDER XLV.—*Attachment of Debts and other Property.*

1. The Court or a Judge may, upon the ex parte application of a judgment-creditor and upon affidavit by himself or his solicitor stating that judgment has been recovered, and that it is still unsatisfied and to what amount, and that some third person is

indebted to the judgment debtor, and is within the jurisdiction, or that such judgment debtor is beneficially interested in some moneys, securities for money or other property, not being lands or any interest in lands, in the custody or under the control of some third person, and upon the filing of a præcipe for that purpose, issue a writ of attachment against all debts due or accruing due to the judgment debtor from such third person (hereinafter called the garnishee), and against any beneficial interest of the judgment debtor in any property, not being lands or any interest in lands, in the custody or under the control of the garnishee.

2. Such præcipe shall be in the Form No. 4 in Appendix (E), and such writ of attachment shall be in the Form No. 4 in Appendix (F), with such alterations in either case as circumstances require.

3. The writ shall be prepared by the party applying for the same, and shall be entitled in the action, and a copy signed by him or his solicitor shall be delivered to the Registrar to be filed in Court.

4. Subject to any order of the Court as to the mode of service, the writ shall be served by the Marshal on the garnishee: provided always that the garnishee may accept service personally or through his solicitor by indorsing on the writ a memorandum of such acceptance of service and of the date thereof, and in such case service by the Marshal shall be unnecessary.

5. The Marshal shall within three days at most after service by him of the writ, indorse thereon the year, day of the month and week of the service thereof.

6. From the time of the service upon the garnishee of a writ of attachment, all property whatsoever within the colony, other than land or any interest in land, to which the judgment debtor is beneficially entitled, whether solely or jointly with others, and which at the time of the service of the writ, or at any time before the same is dissolved, is in the custody or under the control of the garnishee, and all debts due or accruing due by the garnishee to the judgment debtor at or during such time as aforesaid shall, to the extent of the judgment debtor's interest therein, and subject to Crown debts and to any *bond fide* prior title thereto, or lien or charge thereon, be respectively attached in the hands of such garnishee, to satisfy the claim of the judgment creditor.

7. Any garnishee who, without leave or order of the Court, at any time after the service of the writ, and before the attachment is dissolved, knowingly and wilfully parts with the custody or control of any property attached in his hands, or removes the same out of the Colony, or sells or disposes of the same, or pays over any debt due by him to the judgment debtor, except only to or to the use of the judgment creditor, shall be liable to attachment, and shall pay such damages to the judgment creditor as the Court may award: Provided the Court shall not award a larger amount of damages than it is competent to give in an action for damages, and such award shall bar any suit for such damages.

8. In all cases where it is made to appear to the satisfaction of the Court by affidavit or otherwise, that there is reasonable cause to believe that any moveable property attached is in danger of being removed out of the colony, or of being sold, or otherwise disposed of, without the leave of the Court, the Court may, by an order in writing, direct the Marshal to seize such property and detain the same subject to the order of the Court, or may make any other order for the delivery and custody of such property: Provided always that the Court may order such property to be released upon such terms as to security and other matters as may seem just.

9. Property in the hands or under the control of any public officer in his official capacity shall be liable to attachment in execution of a decree with the consent of the Governor, and property *in custodia legis*, shall be liable to attachment by order of the Court. The attachment shall take effect from the service of the writ on such officer, or in the case of property *in custodia legis*, from the date of the order of the Court.

10. Every garnishee shall appear before the Court on the day specified in the writ, or on such subsequent day as the Court appoints, and of which he has received notice, to be examined touching the property which may have been attached in his hands.

11. Upon the day appointed for such investigation, or at any adjournment thereof, the Court may, of its own motion, or at the instance of any person interested in the inquiry, summon any person whom it may think necessary, and examine him in relation to such property, and may require the garnishee, as well as the person summoned as aforesaid, to produce all books and documents in his possession or power relating to such property.

12. The Court may, upon such investigation order that any property attached consisting of money or bank notes, or a sufficient part thereof, be paid over to the judgment creditor, or that any property attached not consisting of money or bank notes, be sold, so far as may be necessary for the satisfaction of the judgment, and that the money which may be realised by such sale, or a sufficient part thereof, be applied in satisfaction of the judgment; and that the writ be dissolved.

13. If the garnishee does not dispute his liability and fails to comply with the order of the Court, the Court may order execution to issue, to levy, the amount due from such garnishee or so much thereof as may be sufficient to satisfy the judgment debt, or to levy the amount of such judgment debt or so much thereof as can be so levied by sale of the property attached or a sufficient part thereof, and all costs of the proceedings.

14. If the garnishee disputes his liability, the Court may order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in an action may be tried or determined; or with the consent of the parties may dispose of the question between them in a summary manner.

15. Whenever there are several claimants to any property attached or to any interest therein, the Court may, in its discretion, summon before it all the claimants, and may make such orders as in the last preceding rule mentioned, for the ascertaining of their respective rights, and for the custody of the property in the meanwhile, or, with the consent of parties, may dispose of the adverse claims in a summary manner.

16. There shall be kept by the Registrar an Attachment Book, and in such book entries shall be made of the attachment and proceedings thereon, with names, dates, and statements of the amount recovered, and otherwise; and copies of any entries made therein may be taken by any person upon application to the Registrar.

17. The payment of debts or the delivery of property by the garnishee under the order of the Court, or execution levied upon him in respect thereof, shall be a valid discharge, as against all claimants of such debts or property, although the attachment may be set aside or the judgment reversed.

18. The attachment may be dissolved at any time by order of the Court, or, in case the judgment-creditor consents, it shall be dissolved *ipso facto* on the filing in the Registrar's office of a memorandum of such consent, signed by him in the presence of the Registrar.

19. The Court may stay proceedings in any suit commenced against a garnishee in respect of property attached in his hands, upon such terms as it thinks fit.

20. The Court may allow a reasonable sum to a garnishee for his attendance and loss of time, according to the scale of allowances to witnesses, and the amount so allowed shall be paid by the person enforcing the attachment, and may be recovered by him as costs of execution, unless the Court otherwise orders.

ORDER XLVI.—*Charging of Stock or Shares.*

An order charging stock or shares may be made by a full Court or by any Judge, and the proceedings for obtaining such order shall be such as are directed, and the effect shall be such as is provided by Ordinance No. 19 of 1845, intituled "An Ordinance for improving the remedies of creditors against the property of their debtors."

ORDER XLVII.—*Writ of Sequestration.*

Where any person is by any judgment directed to pay money into Court or to do any other act in a limited time, and after due service of such judgment refuses or neglects to obey the same according to the exigency thereof, the person prosecuting such judgment shall, at the expiration of the time limited for the performance thereof, be entitled, without obtaining any order for that purpose, to issue a writ of sequestration against the estate and effects of such disobedient person. Such writ of sequestration shall have the same effect as a writ of sequestration in the High Court of Justice in England, and the proceeds of such sequestration may

be dealt with in the same manner as the proceeds of writs of sequestration are dealt with by that Court.

ORDER XLVIII.—*Writ of Possession.*

1. A judgment that a party do recover possession of any lands may be enforced by writ of possession commanding the Marshal to put the party in possession of such lands with their appurtenances.

2. Where by any judgment any person therein named is directed to deliver up possession of any lands to some other person, the person prosecuting such judgment shall, without any order for that purpose, be entitled to sue out a writ of possession on filing an affidavit showing due service of such judgment, and that the same has not been obeyed.

ORDER XLIX.—*Writ of Delivery.*

A writ for the delivery to any party of any property other than lands or money shall command the Marshal to cause such property to be delivered to such party and shall provide for the case of such property, or any part thereof, not being found in such of the two following modes as such party shall elect (that is to say) either by commanding the Marshal to cause to be made of the goods and chattels of the party by whom delivery ought to be made the assessed value of such property, or by authorising and commanding the Marshal to distrain the party by whom delivery ought to be made by all his lands and chattels until such delivery is made.

ORDER L.—*Change of Parties by Death, &c.*

1. An action shall not become abated by reason of the marriage, death or bankruptcy of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation or devolution of any estate or title pendente lite.

2. In case of the marriage, death, or bankruptcy or devolution of estate by operation of law, of any party to an action, the Court or a Judge may, if it be deemed necessary for the complete settlement of all the questions involved in the action, order that the husband, personal representative, trustee, or other successor in interest, if any, of such party be made a party to the action, or be served with notice thereof, in such manner and form as herein-after prescribed, and on such terms as the Court or Judge thinks just, and shall make such order for the disposal of the action as may be just.

3. In case of an assignment, creation or devolution of any estate or title pendente lite, the action may be continued by or against the person to or upon whom such estate or title has come or devolved.

4. Where by reason of marriage, death or bankruptcy or any other event occurring after the commencement of an action, and

causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the action, it becomes necessary or desirable that any person not already a party to the action should be made a party thereto, or that any person already a party thereto should be made a party thereto in another capacity, an order that the proceedings in the action shall be carried on between the continuing parties to the action and such new party or parties, may be obtained ex parte on application to the Court or a Judge, upon an allegation of such change or transmission of interest or liability or of such person interested having come into existence.

5. An order so obtained shall, unless the Court or Judge otherwise directs, be served upon the continuing party or parties to the action, or their solicitors, and also upon each such new party, unless the person making the application be himself the only new party, and the order shall from the time of such service, subject nevertheless to the two next following rules, be binding on the persons served therewith, and every person served therewith who is not already a party to the action shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons.

6. Where any person who is under no disability, or under no disability other than coverture, or being under any disability other than coverture but having a guardian ad litem in the action, is served with such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the service thereof.

7. Where any person being under any disability other than coverture, and not having had a guardian ad litem appointed in the action, is served with any such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the appointment of a guardian or guardians ad litem for such party, and until such period of twelve days have expired such order shall have no force or effect as against such last-mentioned person.

ORDER LI.—*Consolidation.*

Actions may be consolidated by order of the Court or a Judge in the manner in use in the High Court of Justice in England.

ORDER LII.—*Orders as to Mandamus Injunctions or Interim Preservation of Property, Sales, &c.*

1. When by any contract a *primâ facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the Court or a Judge may make an order for the preservation or interim custody of the subject matter of the litigation, or may order that the amount in dispute be brought into Court or otherwise secured.

2. It shall be lawful for the Court or a Judge, on the application of any party to any action, to make any order for the sale, by any person or persons named in such order, and in such manner, and on such terms as to the Court or a Judge may seem desirable, of any goods, wares, or merchandise, which may be of a perishable nature or likely to injure from keeping, or which for any other just and sufficient reason it may be desirable to have sold at once.

3. It shall be lawful for the Court or a Judge, upon the application of any party to an action, and upon such terms as may seem just, to make any order for the detention, preservation, or inspection of any property, being the subject of such action, and for all or any of the purposes aforesaid to authorise any person or persons to enter upon or into any land or building in the possession of any party to such action, and for all or any of the purposes aforesaid to authorise any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

4. An application for an order under section 18 sub-section 8 of the Ordinance or under Rules 2 or 3 of this Order, may be made to the Court or a Judge by any party. If the application be by the plaintiff for an order under the said sub-section 8 it may be made either ex parte or with notice, and if for an order under the said Rules 2 or 3 of this Order it may be made after notice to the defendant at any time after the issue of the writ of summons, and if it be by any other party, then on notice to the plaintiff, and at any time after appearance by the party making the application.

5. An application for an order under Rule 1 may be made by the plaintiff at any time after his right thereto appears from the pleadings, or, if there be no pleadings, is made to appear by affidavit or otherwise to the satisfaction of the Court or a Judge.

6. Where an action is brought to recover, or a defendant in his statement of defence seeks by way of counter-claim to recover, specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court or a Judge may, at any time after such last-mentioned claim appears from the pleadings, or, if there be no pleadings, by affidavit or otherwise to the satisfaction of such Court or Judge, order that the party claiming to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed, and such further sum (if any) for interest and costs as such Court or Judge may direct, and that upon such payment into Court being made, the property claimed be given up to the party claiming it.

7. If it is shown to the satisfaction of the Court that the defendant is, with intent to obstruct or delay the execution of any judgment which may be passed against him, about to conceal or to remove any of his goods, chattels or effects out of the Colony, it shall be lawful for the Court, in its discretion, on the application of the

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plaintiff, to order that the goods, chattels and effects of the defendant, or any part thereof, be forthwith secured and taken into the custody of the Marshal as a pledge or security to answer the just demands of the plaintiff until the trial of such action and judgment thereon: Provided that the Court may at any time, upon reasonable cause being shown, and upon such terms, if any, as to security or otherwise as may seem just, release the property seized and order the same to be returned.

8. If it appears to the Court that seizure of the defendant's goods was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed, or judgment is given against him by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit, the Court may, on application of the defendant, award against the plaintiff such amount as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by such seizure: Provided that the Court shall not award a larger amount of compensation under this rule than it is competent to the Court to decree in an action for damages. An award of compensation under this rule shall bar any suit for damages in respect of such arrest or attachment.

9. If after an action has been instituted in relation to any real estate it appears to the Court that it will be necessary or expedient that the said real estate or any part thereof should be sold for the purposes of such action, it shall be lawful for the Court to direct the same to be sold at any time after the institution of such action, and such sale shall be as valid to all intents and purposes as if directed to be made by a judgment on the hearing of such cause; and any party to the suit in possession of such estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser or to such other person as the Court directs.

10. Before any estate or interest is put up for sale under a judgment or order of the Court, the Court may, if it thinks fit, refer it to some counsel to be approved by the Court, to examine and advise upon the title thereto to the intent that the said Court may be the better enabled to give such directions as may be necessary respecting the conditions of sale of such estate or interest, and other matters connected with the sale thereof.

11. Where any real or personal property forms the subject of any proceedings, and the Court is satisfied that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such proceedings, it shall be lawful for the Court at any time after the commencement of such proceedings to allow to the parties interested therein, or any one or more of them, the whole or part of the annual income of such real property, or a part of such personal property, or a part or the whole of the income thereof, up to such time as the Court directs, and for that purpose to make such orders as may appear to the Court necessary or expedient.

ORDER LIII.—*Motions and other Applications.*

1. Where by these rules any application is authorised to be made to the Court or a Judge in an action, such application, if made to a full Court or to a Judge in Court, shall be made by motion.

2. No rule or order to show cause shall be granted in any action, except in the cases in which an application for such rule or order is expressly authorised by the Ordinance or these rules.

3. Except where by the practice of the High Court of Justice in England any order or rule is made *ex parte* absolute in the first instance, and except where by these rules it is otherwise provided, and except where the motion is for a rule to show cause only, no motion shall be made without previous notice to the parties affected thereby. But the Court or Judge, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may move to set it aside.

4. Unless the Court or Judge give special leave to the contrary there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion.

5. If on the hearing of a motion or other application the Court or Judge is of opinion that any person to whom notice has not been given ought to have or to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court or Judge may think fit to impose.

6. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court or Judge thinks fit.

7. The plaintiff shall, without any special leave, be at liberty to serve any notice of motion or other notice, or any petition or summons upon any defendant, who, having been duly served with a writ of summons to appear in the action, has not appeared within the limited time for that purpose.

8. The plaintiff may, by leave of the Court or a Judge to be obtained *ex parte*, serve any notice of motion upon any defendant along with the writ of summons, or at any time after service of the writ of summons and before the time limited for the appearance of such defendant.

9. Where, by these rules, any application ought to be made to, or any jurisdiction exercised by the Judge before whom an action has been tried, if such Judge dies or ceases to be a Judge of the Supreme Court, or if for any other reason it is impossible or inconvenient that such Judge should act in the matter, the full Court may either by a special order in any action or matter, or by a general order applicable to any class of actions or matters, nominate some other Judge to whom such application may be made and by whom such jurisdiction may be exercised.

10. Every application which according to these rules is made by summons shall be so made in Chambers in a summary way.

Every other application which under the Ordinance or these rules is made in Chambers shall be made in a summary way and either by summons or by leave of the Judge in Chambers *viva voce*.

11. The following applications may be made in Chambers in addition to such applications as may be so made under the provision in this behalf of the Ordinance or these rules (that is to say) applications:

To be admitted to sue or defend in *forma pauperis*.

For leave to serve or give notice of a writ of summons out of the jurisdiction.

For leave to renew a writ of summons.

To admit to bail.

For leave to appear.

In an action to recover land, for leave to appear and defend.

To strike out or substitute a party.

To set aside appearance.

To appoint a guardian *ad litem*.

For an order on a third party to interplead.

Where writ is specially indorsed, for leave to sign judgment.

Where writ is indorsed with a claim for an account, for order to account.

For leave to pay money into Court.

Where writ is specially indorsed, for further statement beyond the indorsement.

For leave to deliver interrogatories.

For leave to amend or plead after amendment.

To set aside demurrer.

To plead as well as demur.

To plead a defence in addition to "not guilty by statute."

For a commission to take evidence.

For discovery, production or inspection of documents.

To enlarge time to deliver pleadings, answer, or amend, for taking evidence or filing affidavits, or to serve notice to produce deponent for cross-examination.

For leave to countermand notice of trial.

For order to the Marshal to seize defendant's property before trial.

For order to the Marshal to seize property attached.

For approval of sureties of receiver and otherwise perfecting the appointment of a receiver.

For passing a receiver's accounts and discharging receiver.

As to the conduct of actions or matters.

As to the management of property.

To approve of Counsel to advise upon title.

For payment into Court of purchase moneys under sales by order of the Court and for investing the same.

12. All applications which before the commencement of the

Ordinance might be made in the Practice Court may be made in Chambers.

13. Costs shall be taxed by a Judge in Chambers.

14. All accounts and inquiries which by a judgment are directed to be taken or made by a Judge in Chambers shall be taken and made accordingly.

15. Every appeal to the Court from any decision at Chambers shall be by motion, and notice thereof shall be filed within eight days after the decision appealed against. The notice shall be a four days' notice.*

16. An order for the issue of a writ *ad melius inquirendum* shall be in the first instance an order *nisi* which the Court may direct to be served either upon the Coroner or the District Medical Officer or any other person.

ORDER LIV.—*Full and other Courts.*

The following proceedings and matters shall be heard and determined before a full Court; but nothing herein contained shall be construed so as to take away or limit the power of a single Judge to hear and determine any such proceedings or matters in any case in which he has heretofore had power to do so, or so as to require any interlocutory proceeding therein heretofore taken before a single Judge to be taken before a full Court:—

Proceedings analogous to proceedings on the Crown side of the Queen's Bench Division of the High Court of Justice in England.

Proceedings analogous to proceedings on the Revenue side of the Exchequer Division of the High Court of Justice in England.

Cases of habeas corpus, in which a Judge directs that a rule *nisi* for the writ, or the writ be made returnable before a full Court.

Applications for any order whether *nisi* or absolute for a writ *ad melius inquirendum*.

Applications for any order to bring up any record or proceedings of any inferior Court.

Special cases where all parties agree that the same be heard before a full Court.

Appeals from Chambers, and applications for new trials where the action has been tried with a jury.

ORDER LV.—*Costs.*

1. Subject to the provisions of the Ordinance and of these orders, the costs of and incident to all proceedings in the Supreme Court shall be in the discretion of the Court; but nothing herein contained shall deprive a trustee, mortgagee, or other person of any right to costs out of a particular estate or fund to which he

* NOTE.—Rule 15, Order LIII. is annulled by the rules made by the Judges, dated 16th March, 1880.

would be entitled according to the rules hitherto acted upon in Courts of Equity: Provided that where any action or issue is tried by a jury, the costs shall follow the event, unless upon application made at the trial for good cause shown the Judge before whom such action or issue is tried or the Court otherwise order.

2. No costs shall be allowed to a plaintiff in any action instituted in the ordinary jurisdiction which might have been instituted in the summary jurisdiction, unless the action was instituted in the ordinary jurisdiction by leave of the Court, or the Court on giving judgment is of opinion that the action is one which it was proper to institute in the ordinary jurisdiction.

3. The Court may, if in any case it deems fit, require a plaintiff who is out of the Colony either at the commencement of any action or at any time during the progress thereof to give security for costs to the satisfaction of the Court by deposit or otherwise, and may stay proceedings till such security is given.

4. Where an order *nisi* for the issue of a writ *ad melius inquirendum* is made absolute, the Court may order the costs to be paid by all or any of the parties served with the order *nisi*.

ORDER LVI.—*Notices and Paper, &c.*

1. All notices required by these rules shall be in writing, unless expressly authorised by a Court or a Judge to be given orally.

3. Any affidavit may be sworn to either in print or in manuscript, or partly in print and partly in manuscript.

ORDER LVII.—*Time.*

1. Where by these rules, or by any judgment or order given or made after the commencement of the Ordinance, time for doing any act or taking any proceeding is limited by months, not expressed to be lunar months, such time shall be computed by calendar months.

2. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding, Sunday, Christmas Day, the first day of January, Good Friday, the Festival of Corpus Christi, and any day duly appointed as a public holiday, shall not be reckoned in the computation of such limited time.

3. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the next day on which the offices are open.

4. No pleadings shall be amended or delivered in the vacation, unless directed by a Court or a Judge.

5. The time of the vacation shall not be reckoned in the computation of the times appointed or allowed by these rules for filing, amending or delivering any pleading, unless otherwise directed by a Court or a Judge.

6. A Court or a Judge shall have power to enlarge or abridge the time appointed by these rules, or fixed by any order enlarging or abridging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

ORDER LVIII.—*Appeals.*

1. Bills of exceptions and proceedings in error shall be abolished.

2. All appeals shall be by way of rehearing, and shall be brought by notice of motion in a summary way, and no petition, case, or other formal proceeding other than such notice of motion shall be necessary. The appellant may by the notice of motion appeal from the whole or any part of any judgment or order, and the notice of motion shall state whether the whole or part only of such judgment or order is complained of, and in the latter case shall specify such part.

3. The notice of appeal shall be served upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Court may direct notice of the appeal to be served on all or any parties to the action or other proceedings, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may seem just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties. Any notice of appeal may be amended at any time as to the Court may seem fit.

4. Notice of appeal from any judgment, whether final or interlocutory, shall be a fourteen days' notice, and notice of appeal from any interlocutory order shall be a four days' notice.

5. The Court upon any appeal shall have all the powers and duties as to amendment and otherwise of the Court of First Instance, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave upon interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a judgment after trial or hearing of any cause or matter upon the merits, such further evidence (save as to matters subsequent as aforesaid) shall be admitted on special grounds only, and not

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without special leave of the Court. The Court shall have power to give any judgment and make any order which ought to have been made, and to make such further or other order as the case may require. The powers aforesaid may be exercised by the Court, notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision. The Court shall have power to make such order as to the whole or any part of the costs of the appeal as may seem just.

6. It shall not, under any circumstances, be necessary for a respondent to give notice of motion by way of cross appeal, but if a respondent intends, upon the hearing of the appeal, to contend that the decision of the Court below should be varied, he shall, within the time specified in the next rule, or such time as may be prescribed by special order, give notice of such intention to any parties who may be affected by such contention. The omission to give such notice shall not diminish the powers conferred by the Ordinance upon the Court of Appeal, but may, in the discretion of the Court, be ground for an adjournment of the appeal, or for a special order as to costs.

7. Subject to any special order which may be made, notice by a respondent under the last preceding rule shall in the case of any appeal from a final judgment be an eight days' notice, and in the case of an appeal from an interlocutory order a two days' notice.

8. The party appealing from a judgment or order shall file in the Registrar's office a copy of the notice of appeal, and such officer shall thereupon set down the appeal by entering the same in the proper list of appeals, and it shall come on to be heard according to its order in such list, unless the Court or a Judge otherwise directs, but so as not to come into the paper for hearing before the day named in the notice of appeal.

9. The time for appealing from any order or decision made or given in the matter of the winding up of a company under the provisions of "The Companies Ordinance, 1869," or any Ordinance amending the same, or any order or decision made in the matter of any bankruptcy, or in any other matter not being an action, shall be the same as the time limited for appeal from an interlocutory order under Rule 14.

10. Where an *ex parte* application has been refused by a Judge, an application for a similar purpose may be made to the full Court *ex parte* within four days from the date of such refusal, or within such enlarged time as a Judge or full Court may allow.

11. When any question of fact is involved in an appeal the evidence taken in the Court of First Instance bearing on such question shall, subject to any special order, be brought before the full Court as follows:

(a.) As to any evidence taken by affidavit, by the production of office copies of the affidavits;

(b.) As to any evidence given orally, by the production of the Judge's notes or a copy thereof, or such other materials as the Court may deem expedient.

12. If upon the hearing of an appeal, a question arise as to the ruling or direction of the Judge to a Jury, the Court shall have regard to verified notes or other evidence, and to such other materials as the Court may deem expedient.

13. No interlocutory order or rule from which there has been no appeal shall operate so as to bar or prejudice the Court from giving such decision upon the appeal as may seem just.

14. No appeal from any interlocutory order shall, except by special leave of the full Court be brought after the expiration of twenty-one days, and no other appeal shall, except by such leave, be brought after the expiration of one year. The said respective periods shall be calculated from the time at which the judgment or order is signed, entered, or otherwise perfected, or, in the case of the refusal of an application, from the date of such refusal. Such deposit or other security for the costs to be occasioned by any appeal shall be made or given as may be directed under special circumstances by the full Court.

15. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from, except so far as the Court or any Judge thereof, may so order, and no intermediate act or proceeding shall be invalidated, except so far as the Court or Judge appealed from may direct.

16. Every application to a Judge in respect of an appeal shall be by motion, and the provisions of Order LIII. shall apply thereto.

17. Nothing in this order shall apply to appeals under the Summary Convictions Appeal Ordinance, 1875.

ORDER LIX.—*Arbitration.*

1. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters be referred to the final decision of an arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference, and such order shall be filed with the proceedings of the suit.

2. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrators, or if the persons nominated by them refuse to accept the arbitration, the Court shall appoint the arbitrators.

3. The Court shall by an order under its seal refer to the arbitrators the matters in difference in the suit which they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

4. If the reference be to two or more arbitrators, provision shall

be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

5. When a reference is made to arbitration by an order of Court, the same process to the parties and witnesses whom the arbitrators or umpire may desire to have examined shall issue as in ordinary suits; and persons not attending in compliance with such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt of the arbitrators or umpire, during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

6. When the arbitrators are not able to complete the award within the period specified in the order from want of the necessary evidence or information, or other good and sufficient cause the Court may, from time to time, enlarge the period for delivery of the award, if it thinks proper. In any case in which an umpire has been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they have allowed their time, or their extended time, to expire without making an award, or have delivered to the Court or to the umpire, a notice in writing stating that they cannot agree: Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from misconduct of the arbitrators or umpire, or unless the award has been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

7. If, in any case of reference to arbitration by an order of Court, the arbitrators or umpire die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice has been served, no umpire is appointed, it shall be lawful for the Court, upon the application of any party, and upon proof to its satisfaction of such notice as aforesaid having been served, to appoint an umpire. In any case of appointment under this rule, the arbitrators or umpire appointed shall have the like power to act in the reference, as if their names had been inserted in the original order of reference.

8. It shall be lawful for the arbitrators, or umpire, upon any reference by an order of Court, if they think fit, and if it is not provided to the contrary, to state their award as to the whole or

any part thereof in the form of a special case for the opinion of the Court.

9. The Court may, on the application of any party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision. The Court may also, on such application, make such order as it thinks just respecting the cost of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

10. In any of the following cases, the Court shall have power to remit the award or any of the matters referred to arbitration for reconsideration by the arbitrators, or umpire, upon such terms as it may think proper, that is to say:—

- (1.) If the award has left undetermined some of the matters referred to arbitration, or if it has determined matters not referred to arbitration;
- (2.) If the award is so indefinite as to be incapable of execution;
- (3.) If an objection to the legality of the award is apparent upon the face of the award.

11. No award shall be liable to be set aside except on the ground of misconduct of an arbitrator or umpire. Any application to set aside an award shall be made within fourteen days after the publication thereof.

12. If no application is made to set aside the award, or to remit the same or any of the matters referred for reconsideration, or if the Court has refused any such application, any party may file the award in Court, and the award shall thereupon have the same force and effect as a judgment.

13. When any persons by an instrument in writing agree that any differences between them or any of them, shall be referred to the arbitration of any persons named in the agreement, application may be made by the parties thereto, or any of them, that the agreement be filed in Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be numbered and registered as a suit between the parties interested as plaintiffs and defendants. If no sufficient cause be shown against the filing of the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon. The foregoing provisions relating to arbitration, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under the order of reference and to the award of arbitration and to the enforcement of such award.

14. When any matter has been referred to arbitration without the intervention of the Court, and an award has been made, any person interested in the award may, within six months from the date of the award, make application to the Court that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and shall thereupon have the same force and effect for all purposes as a judgment.

ORDER LX.—*Suits by or against the Government.*

1. Claims by the Government of the Colony against any private person shall be brought in the name of the Attorney General, and, subject as hereinafter provided, shall be carried on in the same manner in every respect as suits between private parties.
2. All claims against the Government of the Colony being of the same nature as claims which may be preferred against the Crown in England, under the provisions of the Imperial Act, 23 and 24 Vict., c. 34, entitled "The Petitions of Right Act, 1860," may, with the consent of the Governor, be preferred in the Supreme Court in a suit instituted by the claimant as plaintiff against "The Attorney General" as defendant.
3. It shall not be necessary for the claimant to issue a writ of summons, but the suit shall be commenced by the filing of a statement of complaint in the Supreme Court, and the delivering of a copy thereof at the Chambers of the Attorney General or to his Solicitor.
4. The Registrar shall forthwith transmit the statement of claim to the Colonial Secretary, and the same shall be laid before the Governor. In case the Governor grants his consent as aforesaid, the statement of claim shall be returned to the Supreme Court, with the fiat of the Governor endorsed thereon, and the Court may on the application of the claimant fix a time within which the Attorney General is to file and deliver a statement of defence on behalf of the Government, or demur to the action.
5. All documents which in a suit of the same nature between private parties would be required to be served upon the defendant, shall be delivered at the chambers of the Attorney General or to his solicitor.
6. Whenever a cause of action under any contract entered into in relation to any department of the public service, in which the sum sought to be recovered does not exceed two hundred pounds, accrues to the Crown against any person, and whenever any person has a claim against the Crown under any such contract in which the sum sought to be recovered does not exceed two hundred pounds, the chief officer of such department may sue and be sued on behalf of the Government in respect of such cause of action or

claim in and by his official capacity and designation: Provided always, that no such action shall be commenced without the consent of the governor, and that nothing herein contained shall affect any other remedy in respect of such cause of action or claim.

7. In all suits by or against the Government, costs may be awarded in the same manner as in suits between private parties, but no personal liability shall attach to the Attorney General or chief officer in respect thereof.

8. Whenever in any such suit a decree is made against the Government, no execution shall issue thereon, but a copy of such decree under the seal of the Court shall be transmitted by the Court to the governor, who, if the decree is for the payment of money, shall have power by warrant under his hand to direct the amount awarded by such decree to be paid out of the Colonial Treasury, and in the case of any other decree, to take such measures as may be necessary to cause the same to be carried into effect.

ORDER LXI.—*Suits in Formâ Pauperis.*

1. Any poor person, before commencing or defending any action in the Court in his own right, and any person becoming poor during the progress of any action by or against him in his own right, may apply to the Court by petition for leave to sue or defend as a pauper, which petition shall be supported by an affidavit of the petitioner, and by such further evidence as the Court may think necessary, that he is not possessed of property to the amount of ten pounds in value, excepting wearing apparel and the matter or thing claimed by him if he be the plaintiff in the action, and thereupon it shall be referred to a barrister to consider the case; and upon the petitioner producing a certificate, signed by such barrister, that he has considered the case, and believes him to have a good cause of action or defence, as the case may be, it shall be lawful for the Court to admit the petitioner to sue or defend, as the case may be, *in formâ pauperis*, and also to appoint a barrister or solicitor, or both, to appear for him.

2. No person shall be admitted to sue or defend *in formâ pauperis* until he has filed in Court an affidavit containing a full statement of all the material facts of the case to the best of his belief.

3. If in any case the Court thinks fit to assign a barrister or solicitor, or both, to assist a person admitted to sue or defend *in formâ pauperis*, or to consider the case and give such certificate as aforesaid, the barrister or solicitor so assigned may not refuse his assistance, unless he satisfies the Court that he has some good reason for refusing.

4. No fee shall be taken by any barrister or solicitor so assigned, nor shall any fees of Court be demanded by any officer of the Court from any person applying or admitted to sue or defend as a pauper; but if he succeed, and costs should be awarded to

be paid by his opponent, then the barrister and the solicitor so assigned shall be entitled to and shall receive all such fees as the Court allows to them on taxation, and such Court fees as would in other cases be chargeable shall be charged and recovered.

5. Any person having been admitted to sue or defend as a pauper, and becoming of ability during the progress of the cause, or misbehaving himself therein by any vexatious or improper conduct or proceeding, or wilfully delaying the cause, shall, on the same being shown to the Court, be deprived of all the privileges of such admission.

ORDER LXII.—*Effect of Non-compliance.*

Non-compliance with any of these Rules shall not render the proceedings in any action void unless the Court or a judge so directs, but such proceedings may be set aside either wholly or in part as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court or Judge thinks fit.

ORDER LXIII.—*Vacation in Registrar's Office.*

The registrar's office shall be open on every day of the year, except Sundays, Good Friday, Monday and Tuesday in Easter week, Whit Monday, Christmas Day, and the next following working day, and all holidays appointed by or pursuant to the Public Holidays Ordinance, 1872.

ORDER LXIV.—*Summary Jurisdiction.*

1. This Order shall apply exclusively to cases within the summary jurisdiction.

2. The Rules contained in the foregoing Orders shall be applied, *mutatis mutandis*, to actions under the summary jurisdiction so far as the same can be made applicable thereto, unless the Court in any case for the avoiding of delay or in furtherance of substantial justice thinks fit otherwise to direct, and except where such Rules are in the opinion of the Court unsuitable or inconsistent with any provisions contained in this Order.

3. All actions under the summary jurisdiction shall be commenced by a writ of summons in the form prescribed by Order II. except that every such writ shall be entitled "In the Supreme Court of Trinidad (Summary Jurisdiction)," and shall specify the day of hearing, and shall have endorsed thereon full particulars of the plaintiff's claim.*

4. It shall not be necessary for the defendant to enter an appearance to the said writ, but after service thereof the suit shall be heard and determined in a summary way without pleadings: Provided always, that the Judge may order the plaintiff to file within such time as he directs a written statement of the claim, and

* NOTE.—The Rule 3, Order LXIV., is annulled by the Rules made by the Judges, dated 16th March, 1880.

may likewise order the defendant within such time as aforesaid to file a written answer to such statement.

5. On the day of hearing specified in the writ of summons the Court may make a preliminary inquiry into the claim, and if satisfied that the case is within the summary jurisdiction may, if the circumstances of the case render it desirable, give directions as to the filing of a statement of claim and defence and such other directions, if any, as the Court deems expedient with a view to the proper adjudication of the action.

6. The Judge may in any proceeding frame issues of law or fact for the better trial and determination of the cause.

7. It shall be lawful for the Judge, upon such grounds as he in his discretion thinks sufficient, to review any judgment or decision given by him, within one month from the date thereof (except where either party has given notice of motion by way of appeal, and the parties do not agree to the withdrawal of the appeal), and upon such review to reopen and rehear the case wholly or in part, and to take fresh evidence, and to reverse, vary, or confirm his previous judgment or decision.

8. Except by consent or leave of the Court no cause or matter within the summary jurisdiction of the Court shall be set down for hearing before at least three clear days from the service of the writ of summons, and except by consent or by leave of the Court it shall not be competent to the defendant to enter into any equitable defence or to claim any set off or to set up by way of defence infancy, coverture, any statute of limitations or a discharge under any Ordinance relating to bankrupts or insolvents, unless at least twelve hours written notice of such defence has been first given to the plaintiff or his solicitor.

9. No action or other proceeding under the summary jurisdiction shall be treated or considered as invalid or subject to be set aside on account or any verbal or technical error; but all errors and mistakes may in all cases be amended or altered by the Court in its discretion; and unless the Court otherwise directs, all applications to the Court or in chambers which may be necessary in the course of any action or proceeding may be made verbally and without any preliminary formality.

10. The Court may, in its discretion, on the application of either party, order that a common or special jury be empanelled for the trial of any cause under the summary jurisdiction. In every such case the jury empanelled shall consist of five persons only; but, save as aforesaid, all the provisions of the law in force in the colony for the time being relating to juries in the Supreme Court, except so far as the same may provide for the remuneration of special jurors, shall apply to juries of five persons empanelled under this rule.

11. The Court may allow such reasonable sum or sums of money for the attendance and loss of time of parties, witnesses, and special jurors as it thinks fit, and the same may be recovered as costs in the cause.

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12. In case the Court is of opinion that an action commenced in the summary jurisdiction ought to be heard in the ordinary jurisdiction the Court may order that such action be so heard notwithstanding that it may be within the summary jurisdiction.

13. In case the Court is of opinion that an action instituted in the ordinary jurisdiction ought to have been instituted in the summary jurisdiction, or in case the plaintiff's claim is reduced by payment, an admitted set-off, or otherwise to a sum not exceeding two hundred pounds and the action is in other respects within the summary jurisdiction, the Court may order that the action be transferred to the summary jurisdiction.

14. It shall not be necessary, on the transfer of an action as aforesaid, for the plaintiff to issue a new writ, but the Registrar shall endorse on the same writ a memorandum that the action has been transferred as aforesaid by order of the Court. The action shall then be carried on as if the same had been commenced in the jurisdiction to which it is transferred, and the Court may make any special orders in respect of any action so transferred which it may deem necessary or expedient for carrying out the provisions of the last two preceding rules.

15. Solicitors may in all proceedings before the Court in its summary jurisdiction, where the sum sought to be recovered does not exceed fifty pounds, or where the amount or value of the fund or property sought to be administered or otherwise dealt with does not exceed fifty pounds, be heard as advocates.

16. The following actions under the summary jurisdiction shall be commenced, heard and determined at San Fernando.

1. Any action in which each of the parties has at the commencement of the action his usual place of abode or business in the borough of San Fernando as defined by the metes and bounds specified in the 6th section of Ordinance No. 10 of 1853 intituled "An Ordinance for the Regulation of "Municipal Corporations in this Island," or in the County of Victoria, and

2. Any action in which each of the parties who at the commencement of the action has not his usual place of abode or business in the said borough or county, agrees by consent in writing, signed by such party, and filed together with the writ of summons, that such action shall be heard and determined at San Fernando.

Provided that any judge of the Court on its being made to appear to him, that any action commenced at San Fernando would more conveniently proceed in Port of Spain, may order all further proceedings to be taken in Port of Spain, and thereupon the Sub-registrar at San Fernando shall transmit the record to the Registrar of the Supreme Court in Port of Spain.

17. In an action commenced at San Fernando, the writ of summons shall be issued from the registry at San Fernando. The solicitor of a plaintiff suing by a solicitor shall give on the writ the address of the plaintiff and his own name or firm, and his

place of business, and such place of business if within the said borough of San Fernando shall be an address for service, but if such place is not within the said borough he shall add an address for service within the said borough. Where the plaintiff sues in person he shall give on the writ his occupation and his place of residence, and such place of residence if, within the said borough, shall be an address for service, but if such place is not within the said borough, he shall add an address for service within the said borough.

18. Writs, notices, petitions, orders, summonses, warrants and other documents, proceedings and written communications may be left for a person by whom or by whose solicitor an address for service is given at such address

19. Subject to the provisions of this order, where the writ of summons is issued at San Fernando, all documents required to be filed shall be filed in the registry at San Fernando, and all proceedings shall be taken in that registry.

20. Where a cause has been heard and determined at San Fernando, any motion for a new trial or by way of appeal shall be heard and determined in Port of Spain. The Sub-Registrar at San Fernando shall transmit to the Registrar of the Supreme Court in Port of Spain the record of proceedings and the last-mentioned registrar shall enter upon such record all orders made by the Court in Port of Spain upon or in reference to the motion. All writs issued before the motion is heard and determined shall be issued from the registry in Port of Spain, and all proceedings taken before the motion is heard and determined shall be taken in that registry. After the motion is heard and determined, the Registrar of the Supreme Court shall remit the proceedings to the Sub-Registrar at San Fernando, and all subsequent writs shall be issued from and proceedings taken in the registry at San Fernando.

21. Except the Court otherwise orders, process in cases commenced at San Fernando shall be executed by the deputy-marshal who in such cases shall have all the powers and discharge all the duties which in like cases commenced in Port of Spain the marshal has or ought to discharge.

ORDER LXV.—*Cases omitted and excepted.*

1. Where no provision is contained in the Ordinance or these rules, or in any order in council or other law, the rules as to pleading, procedure and practice of the High Court of Justice in England in similar cases shall be observed as nearly as circumstances admit.

2. Nothing in these Rules shall affect the practice or procedure in any of the following proceedings except where any such proceedings are expressly mentioned:—

Criminal proceedings:

Proceedings under the Summary Convictions Appeal Ordinance 1875:

Proceedings analogous to proceedings on the Crown side of the Queen's Bench Division :
 Proceedings analogous to proceedings on the Revenue side of the Exchequer Division.

ORDER LXVI.—*Interpretation of Terms.*

The provisions of the 3rd section of the Ordinance shall apply to these rules.

In the construction of these rules, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned shall have or include the meanings following:—

“Persons” shall include a body corporate or politic:

“Probate actions” shall include actions and other matters relating to the grant or recall of probate or of letters of administration other than common form business:

“The Court” and “the said Court” shall mean the Supreme Court.

“Registrar shall mean

(a.) In reference to proceedings at San Fernando the Sub-Registrar of the Supreme Court; and

(b.) In all other cases the Registrar of the Supreme Court:

“Marshal” shall include the deputy marshal:

“The Ordinance” and “the said Ordinance” shall mean the Judicature Ordinance, 1879.

APPENDIX (A).

PART I.

FORMS OF WRITS OF SUMMONS, &c.

No. 1.—*General Form of Writ of Summons.*

TRINIDAD.

187

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. and E.F. Defendants.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India.

To C.D. of

and E.F. of

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Supreme Court in an action at the suit of A.B.; and, take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Witness, &c.

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the date of such renewal, including the day of such date, and not afterwards.

The defendant [*or defendants*] may appear hereto by entering an appearance [*or appearances*] either personally or by solicitor at the Registrar's office at

Indorsements to be made on the writ before issue thereof.

The plaintiff's claim is for, &c.

This writ was issued by E. F., of _____, solicitor for the said plaintiff, who resides at _____, or this writ was issued by the plaintiff in person, who resides at _____ [*mention the town, ward, or other place, and also the name of the street and number of the house of the plaintiff's residence, if any.*]

Indorsement to be made on the writ after service thereof.

This writ was served by X. Y. on L. M., the defendant [*or one of the defendants*], on *Monday*, the _____ day of _____, 18____.
(Signed) X. Y.

No. 2.—*Writ for Service out of the Jurisdiction, or where Notice in lieu of Service is to be given out of the Jurisdiction.*

TRINIDAD.

In the Supreme Court. 18____
Between A. B. Plaintiff,
and
C. D. and E. F. Defendants.
VICTORIA, by the Grace of God, &c.

To C. D., of

We command you, C. D., that within [*here insert the number of days directed by the Court or Judge ordering the service or notice*] after the service of this writ [*or notice of this writ, as the case may be*] on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Supreme Court in the island of Trinidad in an action at the suit of A. B.; and, take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Witness, &c.

Memoranda and Indorsements as in Form No. 1.

Indorsement to be made on the writ before the issue thereof.

N.B.—This writ is to be used where the defendant or all the defendants or one or more defendant or defendants is or are out of the jurisdiction.

No. 3.—*Notice of Writ in lieu of Service to be given out of the Jurisdiction.*

TRINIDAD

In the Supreme Court. 18____
Between A. B. Plaintiff,
and
C. D., E. F., and G. H. Defendants.

To G. H., of
VOL. IV.

Take notice, that A.B., of _____, has commenced an action against you, G.H., in Her Majesty's Supreme Court of Justice in Trinidad, by writ of that Court, dated the day of _____, A.D. 18 ____; which writ is indorsed as follows [*copy in full the indorsements*], and you are required within _____ days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action; and, in default of your so doing, the said A.B. may proceed herein, and judgment may be given in your absence.

You may appear to the said writ by entering an appearance personally or by your solicitor at the Registrar's office at _____
 (Signed) A.B., of _____, &c.,
 or
 X.Y., of _____, &c.
 Solicitor for A.B.

No. 4.—*Form of Memorandum for Renewed Writ.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,
 and

C.D. Defendant.

Seal renewed writ of summons in this action endorsed as follows :—

[*Copy the original writ and the indorsements.*]

No. 5.—*Memorandum of Appearance.*

TRINIDAD.

18 ____

In the supreme Court.

A.B. v. C.D., and others.

Enter an appearance for
 in this action.

Dated this _____ day of _____

X.Y.,
 Solicitor for the Defendant.

The place of business of X.Y. is _____

His address for service is _____

or [C.D.,
 Defendant in person.]

The address of C.D. is _____

His address for service is _____

The said defendant [requires, or does not require] a statement of complaint to be filed and delivered.

No. 6.

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,
 and

C.D. and E.F. Defendants.

The defendant C.D. limits his defence to part only of the property mentioned in the writ in this action, that is to say, to the close called "The Big Field."

Yours, &c.,

G.H.,

Solicitor for the said Defendant C.D.
Mr. X.Y., Plaintiff's solicitor.

PART II

SECTION I.—GENERAL INDORSEMENTS.

1.—*Creditor to Administer Estate.*

The plaintiff's claim is as a creditor of X.Y., of deceased, to have the [real and] personal estate of the said X.Y., administered. The defendant C.D. is sued as the administrator of the said X.Y. [and the defendants E.F. and G.H. as his co-heirs-at-law].

2.—*Legatee to Administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of _____, 18____, of X.Y., deceased, to have the [real and] personal estate of the said X.Y. administered. [The defendant C.D. is sued as the executor of the said X.Y., and the defendants E.F. and G.H. as his devisees.]

3. *Partnership.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the _____ day of _____], and to have the affairs of the partnership wound up.

4. *By Mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage dated the day of _____ made between _____ [or by deposit of title deeds], and that the mortgage may be enforced by sale.

5. *By Mortgagor.*

The plaintiff's claim is to have an account taken of what, if anything, is due on the mortgage dated _____ and made between [parties], and to redeem the property comprised therein.

6. *Raising Portions.*

The plaintiff's claim is that the sum of £ _____ which by an indenture of settlement dated _____, was provided for the portions of the younger children of _____ may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated and made between carried into execution.

8. *Cancellation or Rectification.*

The plaintiff's claim is to have a deed dated and made between [*parties*], set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the day of , for the sale by the plaintiff to the defendant of certain hereditaments at

SECTION II.—MONEY CLAIMS WHERE NO SPECIAL INDORSEMENT UNDER ORDER III, RULE 6.

Goods sold.	The plaintiff's claim is £	for the price of goods sold.
	[<i>This Form shall suffice whether the claim be in respect of goods sold and delivered, or of goods bargained and sold.</i>]	
Money lent.	The plaintiff's claim is £	for money lent [<i>and interest</i>].
Several demands.	The plaintiff's claim is £	whereof £ is for the price of goods sold, and £ for money lent, and £ for interest.
Rent.	The plaintiff's claim is £	for arrears of rent.
Salary, &c.	The plaintiff's claim is £	for arrears of salary as a clerk [<i>or as the case may be</i>].
Interest.	The plaintiff's claim is £	for interest upon money lent.
General average.	The plaintiff's claim is £	for a general average contribution.
Freight, &c.	The plaintiff's claim is £	for freight and demurrage.
	The plaintiff's claim is £	for lighterage.
Tolls.	The plaintiff's claim is £	for market tolls and stallage.
Penalties.	The plaintiff's claim is £	for penalties under the Statute.
]	
Bankers balance.	The plaintiff's claim is £	for money deposited with the defendant as a banker.
Fees, &c. as solicitors.	The plaintiff's claim is £	for fees for work done [<i>and money expended</i>] as a solicitor.
Commission.	The plaintiff's claim is £	for commission earned as [<i>state character as auctioneer, cotton broker, &c.</i>].
Medical attendance, &c.	The plaintiff's claim is £	for medical attendances.
Return of premium.	The plaintiff's claim is £	for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is £	for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is £	for the carriage of goods.
Use and occupation of houses.	The plaintiff's claim is £	for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is £	for the hire of [<i>furniture</i>].
Work done.	The plaintiff's claim is £	for work done as a surveyor.

e dated	The plaintiff's claim is £	for board and lodging.	Board and lodging.
	The plaintiff's claim is £	for the board, lodging, and tuition of X. Y.	Schooling.
	The plaintiff's claim is £	for money received by the defendant as solicitor [<i>or</i> factor, or collector, <i>or, &c.</i>] of the plaintiff.	Money received.
	The plaintiff's claim is £	for fees received by the defendant under colour of the office of	Fees of office.
ement by the	The plaintiff's claim is £	for a return of fees overcharged by the defendant as	Money overpaid.
	The plaintiff's claim is £	for a return of money deposited with the defendant as stakeholder.	Return of money by stakeholder.
MENT	The plaintiff's claim is £	for money entrusted to the defendant as stakeholder, and become payable to plaintiff.	Money won, from stakeholder.
l.	The plaintiff's claim is £	for a return of money entrusted to the defendant as agent of the plaintiff.	Money entrusted to agent.
is sold	The plaintiff's claim is £	for a return of money obtained from the plaintiff by fraud.	Money obtained by fraud.
est].	The plaintiff's claim is £	for a return of money paid to the defendant by mistake.	Money paid by mistake.
e price for	The plaintiff's claim is £	for a return of money paid to the defendant for [<i>work to be done, left undone; or, a bill to be taken up, not taken up, or, &c.</i>].	Money paid for consideration which has failed.
a clerk	The plaintiff's claim is £	for money paid for defendant as his surety.	Money paid by surety for defendant.
ent.	The plaintiff's claim is £	for money paid for rent due by the defendant.	Rent paid.
contri-	The plaintiff's claim is £	upon a bill of exchange accepted [<i>or indorsed</i>] for the defendant's accommodation.	Money paid on accommodation bill.
.	The plaintiff's claim is £	for a contribution in respect of money paid by the plaintiff as surety.	Contribution by surety.
ge.	The plaintiff's claim is £	for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.	By co-debtor.
atute.			
h the			
[and	The plaintiff's claim is £	for money payable under an award.	Money payable under award.
[state	The plaintiff's claim is £	upon a policy of insurance upon the life of X. Y. deceased.	Life policy.
	The plaintiff's claim is £	upon a bond to secure payment of £1,000 and interest.	Money bond.
paid	The plaintiff's claim is £	upon a judgment of the High Court of Justice in England.	English judgment.
ds.	The plaintiff's claim is £	upon a judgment of the Court, in the Empire of Russia.	Foreign judgment.
of a	The plaintiff's claim is £	upon a cheque drawn by the defendant.	Bills of exchange, &c.
	The plaintiff's claim is £	upon a bill of exchange accepted [<i>or drawn or indorsed</i>] by the defendant.	
r.	The plaintiff's claim is £	upon a promissory note made [<i>or indorsed</i>] by the defendant.	

The plaintiff's claim is £ against the defendant A. B. as acceptor, and against the defendant C. D. as drawer [*or indorser*] of a bill of exchange.

Surety. The plaintiff's claim is £ against the defendant as surety for the price of goods sold.

The plaintiff's claim is £ against the defendant A. B. as principal, and against the defendant C. D. as surety, for the price of goods sold [*or arrears of rent, or for money lent, or for money received by the defendant A. B. as traveller for the plaintiffs, or, &c.*]

Del credere agent. The plaintiff's claim is £ against the defendant as *del credere* agent for the price of goods sold [*or as losses under a policy*].

SECTION III.—INDORSEMENT FOR COSTS, &c. [*add to the above Forms*]

And £ for costs; and if the amount claimed be paid to the plaintiff or his solicitor within four days [*or if the writ is to be served out of the jurisdiction, or notice in lieu of service allowed, insert the time for appearance limited by the order*] from the service hereof, further proceedings will be stayed.

SECTION IV.—DAMAGES AND OTHER CLAIMS.

Agent, &c. The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [*and £ for arrears of wages*].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor [*or, &c.*] of the plaintiff [*and £ for money received as factor, &c.*].

Apprentices. The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [*or plaintiff*].

Arbitration. The plaintiff's claim is for damages for non-compliance with the award of X.Y.

Assault, &c. The plaintiff's claim is for damages for assault [*and false imprisonment, and for malicious prosecution*].

By husband and wife. The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff C. D.

Against husband and wife. The plaintiff's claim is for damages for assault by the defendant C. D.

Solicitor. The plaintiff's claim is for damages for injury by the defendant's negligence as solicitor of the plaintiff.

Bailment. The plaintiff's claim is for damages for negligence in the custody of goods [*and for wrongfully detaining the same*].

Pledge. The plaintiff's claim is for damages for negligence in the keeping of goods pawned [*and for wrongfully detaining the same*].

Hire. The plaintiff's claim is for damages for negligence in the custody

by A. B. as
endorser]

as surety

by A. B. as
agent, for the
purpose, or for
the plaintiff's,

agent as del
ivered under a

by the

and be paid
the writ is
of service
to the]

contract to

assess from
the arrears

is wrong-

as factor
received as

rights of a
plaintiff].

with the

is impris-

also im-

by the

defendant's

in custody.

is keep-

in custody

of furniture lent on hire [or a carriage lent,] [and for wrong-
fully, &c.].

The plaintiff's claim is for damages for wrongfully neglecting Banker.
[refusing] to pay the plaintiff's cheque.

The plaintiff's claim is for damages for breach of a contract to Bill.
accept the plaintiff's drafts.

The plaintiff's claim is upon a bond conditioned not to carry Bond.
on the trade of a

The plaintiff's claim is for damages for breach of duty in and Carrier.
about the carriage and delivery of goods.

The plaintiff's claim is for damages for breach of duty in and
about the carriage and delivery of machinery by sea.

The plaintiff's claim is for damages for breach of charter-party
of ship [Mary]. Charter-party.

The plaintiff's claim is for return of household furniture, or, &c.,
or their value, and for damages for detaining the same. Claim for re-
turn of goods;
damages.

The plaintiff's claim is for wrongfully depriving plaintiff of
goods, household furniture, &c. Damages for
depriving of
goods.

The plaintiff's claim is for damages for libel. Defamation.

The plaintiff's claim is for damages for slander.

The plaintiff's claim is in replevin for goods wrongfully
distrained. Distress.
Replevin.

The plaintiff's claim is for damages for improperly distraining. Wrongful
distrain.
[This Form shall be sufficient whether the distress complained of be
wrongful or excessive, or irregular, or whether the claim be for
damages only, or for double value].

The plaintiff's claim is to recover possession of a house, No. Ejectment.
in street, [or of a farm called Blackacre,] situate in the
ward of in the county of

The plaintiff's claim is to establish his title to [here describe pro- To establish
perty], and to recover the rents thereof. title and
recover
rents.

[The two previous Forms may be combined]
The plaintiff's claim is for dower. Dower.

The plaintiff's claim is for damages for infringement of the Fishery.
plaintiff's right of fishing.

The plaintiff's claim is for damages for fraudulent misrepresen- Fraud.
tation on the sale of a horse [or a business, or shares, or, &c.].

The plaintiff's claim is for damages for fraudulent misrepresen-
tation of the credit of A. B.

The plaintiff's claim is for damages for breach of a contract Guarantee.
of guarantee for A. B.

The plaintiff's claim is for damages for breach of a contract
to indemnify the plaintiff as the defendant's agent to distrain.

The plaintiff's claim is for a loss under a policy upon the Insurance.
ship "Royal Charter," and freight or cargo [or for return of
premiums].

[This Form shall be sufficient whether the loss claimed be total or
partial.]

The plaintiff's claim is for a loss under a policy of fire insur- Fire
ance upon house and furniture. Insurance.

- The plaintiff's claim is for damages for breach of a contract to insure a house.
- Landlord and tenant. The plaintiff's claim is for damages for breach of contract to keep a house in repair.
- The plaintiff's claim is for damages for breaches of covenants contained in a lease of a sugar estate.
- Medical man. The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.
- Mischivous animal. The plaintiff's claim is for damages for injury by the defendant's dog.
- Negligence. The plaintiff's claim is for damages for injury to the plaintiff [*or, if by husband and wife, to the plaintiff C. D.*] by the negligent driving of the defendant or his servants.
- Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.
- Seduction. The plaintiff's claim is for damages for the seduction of the plaintiff's daughter.
- Sale of goods. The plaintiff's claim is for damages for breach of contract to accept and pay for goods.
- The plaintiff's claim is for damages for non-delivery [*or short delivery, or defective quality, or other breach of contract of sale*] of cotton [*or, &c.*].
- The plaintiff's claim is for damages for breach of warranty of a horse.
- Sale of land. The plaintiff's claim is for damages for breach of a contract to sell [*or purchase*] land.
- The plaintiff's claim is for damages for breach of a contract to let [*or take*] a house.
- The plaintiff's claim is for damages for breach of a contract to sell [*or purchase*] the lease, with goodwill, fixtures, and stock in trade of a rum shop.
- The plaintiff's claim is for damages for breach of covenant for title [*or for quiet enjoyment, or, &c.*] in a conveyance of land.
- Tresspass to land. The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or cutting his canes, or pulling down his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river*].
- Support. The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or house, or mine*].
- Way. The plaintiff's claim is for damages for wrongfully obstructing a way [*public highway or a private way*].
- Watercourse, &c. The plaintiff's claim is for damages for wrongfully diverting [*or obstructing, or polluting, or diverting water from, a watercourse*].
- The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*on into the plaintiff's mine*].
- The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

The plaintiff's claim is for damages for the infringement of the Pasture.
 plaintiff's right of pasture.

[*This Form shall be sufficient whatever the nature of the right to pasture be*].

The plaintiff's claim is for damages for obstructing the access Light.
 of light to the plaintiff's house.

The plaintiff's claim is for damages for the infringement of the Sporting.
 plaintiff's right of sporting.

The plaintiff's claim is for damages for the infringement of Patent.
 the plaintiff's patent.

The plaintiff's claim is for damages for the infringement of Copyright.
 the plaintiff's copyright.

The plaintiff's claim is for damages for wrongfully using [*or Trade mark.*
imitating] the plaintiff's trade mark.

The plaintiff's claim is for damages for breach of a contract Work.
 to build a ship [*or to repair a house, &c.*]

The plaintiff's claim is for damages for breach of a contract
 to employ the plaintiff to build a ship, &c.

The plaintiff's claim is for damages to his house, trees, crops, Nuisance.
 &c., caused by noxious vapours from the defendant's factory
 [*or, &c.*]

The plaintiff's claim is for damages from nuisance by noise
 from the defendant's works [*or stables, or, &c.*].

The plaintiff's claim is for damages for loss of the plaintiff's Innkeeper.
 goods in the defendant's inn.

Add to Indorsement:—

And for a mandamus.

Mandamus.

Add to Indorsement:—

And for an injunction.

Injunction.

*Add to Indorsement where claim is to land, or to establish title, or
 both:—*

And for mesne profits.

Mesne profits,

And for an account of rents *or* arrears of rent.

Arrears of

And for breach of covenant for [*repairs*]

rent.

Breach of

covenant.

SECTION V.—PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the
 day of _____ of C.W., late of _____
 Gentleman, deceased, who died on the _____ day of _____
 and to have the said will established. This writ is issued against you as one of the next of kin of the said
 deceased [*or as the case may be*].

2. *By an executor or legatee of a former will, or a next of kin,
 &c., of the deceased seeking to obtain the revocation of a Probate
 granted in common form.*

The plaintiff claims to be executor of the last will dated the
 day of _____ of C.D., late of _____
 Gentleman, deceased, who died on the _____ day of _____

contract to
 contract to
 covenants
 plaintiff
 the defen-
 plaintiff
 negligent
 promise of
 on of the
 contract to
 [or short
 t of sale]
 warranty
 contract to
 contract to
 stock in
 covenant
 fance of
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and to have the probate of a pretended will of the said deceased, dated the _____ day of _____ revoked. This writ is issued against you as the executor of the said pretended will [*or as the case may be*].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of C.D. late of _____ Gentleman, deceased, who died on the _____ day of _____ dated the _____ day of _____

The plaintiff claims that the grant of letters of administration of the personal estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next of kin of the deceased, but whose interest as next of kin is disputed.*

The plaintiff claims to be the brother and sole next of kin of C.D. of _____ Gentleman, deceased, who died on the _____ day of _____ intestate, and to have such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next of kin of the deceased [*or as the case may be*].

SECTION VI.—SPECIAL INDORSEMENTS UNDER ORDER III.,
RULE 6.

1. The plaintiff's claim is for the price of goods sold. The following are the particulars:—

1873—31st December.—	£	s.	d.
Balance of account for butcher's meat to this date		35	10 0
1874—1st January to 31st March.—			
Butcher's meat supplied		74	5 0
		109	15 0
1874—1st February.—Paid		45	0 0
		Balance due	£64 15 0

2: The plaintiff's claim is against the defendant A.B. as principal and against the defendant C.D. as surety, for the price of goods sold to A.B. The following are the particulars:—

1874—2nd February. Guarantee by C.D. of the price of woollen goods, to be supplied to A.B.

	£	s.	d.
2nd February—To goods		47	15 0
3rd March—To goods		105	14 0
17th March—To goods		14	12 0
5th April—To goods		34	0 0
		202	1 0

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 tor of the
 administra-
 C.D. late
 ied on the
 iministra-
 d by you
 to him.
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 te of the
 you have
 e next of

3. The plaintiff's claim is against the defendant, as maker of a promissory note. The following are the particulars:—

Promissory note for £250, dated 1st January, 1874, made by defendant, payable four months after date

Principal	£
	250
Interest	

4. The plaintiff's claim is against the defendant A.B. as acceptor, and against the defendant C.D. as drawer of a bill of exchange. The following are the particulars:—

Bill of exchange for £500, dated 1st January, 1874, drawn by defendant C.D. upon and accepted by defendant A.B., payable three months after date.

Principal	£
	500
Interest	

5. The plaintiff's claim is for principal and interest due upon a bond. The following are the particulars:—

Bond dated 1st January, 1873. Condition for payment of £100 on the 26th December, 1873.

Principal due	£
	50
Interest	

6. The plaintiff's claim is for principal and interest due under a covenant. The following are the particulars:—

Deed dated, covenant to pay £100 and interest.

Principal due	£
	80
Interest	

SECTION VII.—INDORSEMENTS OF CHARACTER OF PARTIES.

The plaintiff's claim is as executor [*or administrator*] of C.D., Executors.
 deceased, for, &c.

The plaintiff's claim is against the defendant A.B., as executor [*or, &c.*] of C.D., deceased, for, &c.

The plaintiff's claim is against the defendant A.B., as executor of X.Y., deceased, and against the defendant C.D., in his personal capacity, for, &c.

The claim of the plaintiff C.D. is as executrix of X.Y., By husband
 deceased, and the claim of the plaintiff A.B. as her husband, and wife,
 for executrix.

The claim of the plaintiff is against the defendant C.D. as Against
 executrix of the defendant C.D., deceased, and against the de- husband and
 fendant A.B., as her husband, wife,
executrix.

The plaintiff's claim is as trustee under the bankruptcy of A.B. for

The plaintiff's claim is against the defendant as trustee under Trustee in
 the bankruptcy of A.B. for bankruptcy.

The plaintiff's claim is as [*or the plaintiff's claim is against* Trustees.

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the defendant as] trustee under the will of A.B. [or under the settlement upon the marriage of A.B. and X.Y., his wife.]

Heirs and
devisee.

The plaintiff's claim is against the defendant as heir-at-law of A.B., deceased.

The plaintiff's claim is against the defendant C.D. as heir-at-law, and against the defendant E.F. as devisee of lands under the will of A.B.

Qui tam
action.

The plaintiff's claim is as well for the Queen as for himself, for

APPENDIX (B.)

FORM 1.—*Notice by Defendant to Third Party.*

TRINIDAD.

18 .

Notice filed

18 .

In the Supreme Court.

Between A.B., Plaintiff,
and

C.D., Defendant.

To Mr. E.F.

Take notice that this action has been brought by the plaintiff against the defendant [as surety for M.N., upon a bond conditioned for payment of £2,000 and interest to the plaintiff.

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are [his co-surety under the said bond, or, also surety for the said M.N., in respect of the said matter, under another bond made by you in favour of the said plaintiff, dated the day of , A.D.]

Or [as acceptor of a bill of exchange for £500, dated the day of A.D. , drawn by you upon and accepted by the defendant, and payable three months after date.

The defendant claims to be indemnified by you against liability under the said bill, on the ground that it was accepted for your accommodation.]

Or [to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 1,000 tons of coal.

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.]

And take notice that, if you wish to dispute the plaintiff's claim in this action as against the defendant C.D., you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so appearing, you will not be entitled in any future proceeding between the defendant C.D. and yourself to

dispute the validity of the judgment in this action, whether obtained by consent or otherwise.

(Signed) C.D.
Or,
X.Y.,
Solicitor for the Defendant,
C.D.

Appearance to be entered at

FORM 2.—*Confession by Plaintiff of Defence.*

TRINIDAD. 18
In the Supreme Court.

Between A.B., Plaintiff,
and
C.D., Defendant.

The plaintiff confesses the defence stated in the [*first*] paragraph of the defendant's statement of defence [*or*, of the defendant's further statement of defence].

FORM 3.—*Notice in lieu of Statement of Claim.*

TRINIDAD. 18
In the Supreme Court.

Between A.B., Plaintiff,
and
C.D., Defendant.

The particulars of the plaintiff's complaint herein, and of the relief and remedy to which he claims to be entitled, appear by the indorsement upon the writ of summons.

FORM 4.—*Indorsement on Copy Defence and Counter-claim to be served on Third Party.*

TRINIDAD.
In the Supreme Court.
"To the within named X.Y.

"Take notice that if you do not appear to the within counter-claim of the within named C.D. within eight days from the service of this defence and counter-claim upon you, you will be liable to have judgment given against you in your absence.

"Appearances are to be entered at "

FORM 5.—*Notice of Payment into Court.*

TRINIDAD.
In the Supreme Court.

A.B. v. C.D.

Take notice that the defendant has paid into Court £ and says that that sum is enough to satisfy the plaintiff's claim [*or the plaintiff's claim for, &c.*]

To Mr. X.Y.,
the Plaintiff's Solicitor.

Z.,
Defendant's Solicitor.

FORM 6.—*Acceptance of Sum paid into Court.*

TRINIDAD.

In the Supreme Court.

A.B. v. C.D.

Take notice that the plaintiff accepts the sum of £ paid by you into Court in satisfaction of the claim in respect of which it is paid in.

FORM 7.—*Form of Interrogatories.*

TRINIDAD.

In the Supreme Court.

Between A.B., Plaintiff,
and

C.D., E.F., and G.H., Defendants.

Interrogatories on behalf of the above-named [*plaintiff*, or *defendant* C.D.] for the examination of the above-named [*defendants* E.F. and G.H., or *plaintiff*].

1. Did not, &c.
 2. Has not, &c.
- &c. &c. &c.

[*The defendant E.F. is required to answer the interrogatories numbered.*]

[*The defendant G.H. is required to answer the interrogatories numbered.*].

FORM 8.—*Form of answer to Interrogatories.*

TRINIDAD,

In the Supreme Court.

Between A.B., Plaintiff,
and

C.D., E.F., and G.H., Defendants.

The answer of the above-named defendant E.F. to the interrogatories for his examination by the above-named plaintiff.

In answer to the said interrogatories, I, the above-named E.F., make oath and say as follows:—

.....
.....

FORM 9.—*Form of Affidavit as to Documents.*

TRINIDAD,

In the Supreme Court.

Between A.B., Plaintiff,
and

C.D., Defendant.

I, the above-named defendant C.D. make oath and say as follows:—

1. I have in my possession or power the documents relating to the matters in question in this action set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto.

3. That [*here state upon what grounds the objection is made, and verify the facts as far as may be*].

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this action set forth in the second schedule hereto.

5. The last-mentioned documents were last in my possession or power on [*state when*].

6. That [*here state what has become of the last-mentioned documents, and in whose possession they now are*].

7. According to the best of my knowledge, information, and belief, I have not now, and never had in my possession, custody or power, or in the possession, custody or power of my solicitors or agents, solicitor or agent, or in the possession, custody or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this action, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the document set forth in the said first and second schedules hereto.

FORM 10.—*Form of Notice to produce Documents.*

TRINIDAD,

In the Supreme Court.

A.B. v. C.D.

Take notice that the [*plaintiff or defendant*] requires you to produce for his inspection the following documents referred to in your [*statement of claim or defence, or affidavit, dated the day of*

A.D.]

Describe documents required.

X.Y.,

Solicitor to the

To Z.,

Solicitor for

FORM 11.—*Form of Notice to inspect Documents.*

TRINIDAD,

In the Supreme Court.

A.B. v. C.D.

Take notice that you can inspect the documents mentioned in your notice of the day of A.D. [*except the deed numbered in that notice*] at my office on Thursday next the instant, between the hours of 12 and 4 o'clock.

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Or, that the [*plaintiff or defendant*] objects to giving you inspection of the documents mentioned in your notice of the day of _____ A.D. _____, on the ground that [*state the ground*]:—

FORM 12.—*Form of Notice to admit Documents.*

TRINIDAD,

In the Supreme Court.

A.B. v. C.D.

Take notice that the plaintiff [*or defendant*] in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant [*or plaintiff*], his solicitor or agent, at _____; on _____ between the hours of _____; and the defendant [*or plaintiff*] is hereby required, within forty-eight hours from the last mentioned hour, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated, &c.

To E. F., Solicitor [*or agent*] for defendant [*or plaintiff*].

G. H., solicitor [*or agent*] for plaintiff [*or defendant*].

[*Here describe the documents, the manner of doing which may be as follows:—*]

ORIGINALS.

Description of Documents.	Dates.
Deed of covenant between A. B. and C. D. first part, and E. F. second part	January 1, 1848.
Indenture of lease from A. B. to C. D.	February 1, 1848.
Indenture of release between A. B., C. D. first part, &c.	February 2, 1848.
Letter—defendant to plaintiff	March 1, 1848.
Policy of insurance on goods by ship "Isabella," on voyage from Oporto to London	December 3, 1847.
Memorandum of agreement between C. D., captain of said ship, and E. F.	January 1, 1848.
Bill of exchange for £100 at three months, drawn by A. B. on and accepted by C. D., indorsed by E. F. and G. H.	May 1, 1849.

COPIES.

Description of Documents.	Dates.	Original or Duplicate served, sent, or delivered when, how, and by whom.
Register of baptism of A.B. in parish of X	January 1, 1848	
Letter—plaintiff to defendant	February 1, 1848	Sent by General Post, February 2, 1848.
Notice to produce papers	March 1, 1848	Served March 2, 1848, on defendant's attorney by E.F. of—
Record of a judgment of the Court of Queen's Bench in England in an action J.S. v. J.N.	Trinity term, 10th Viet.	
Letters Patent of King Charles II. in the Rolls Chapel in England	January 1, 1680	

FORM 13.—*Setting down Special Case.*

TRINIDAD.

In the Supreme Court.
Between A.B. Plaintiff,
and

C.D and others Defendants.

Set down for argument the special case filed in this action on
the day of , 18

X.Y., Solicitor for

FORM 14.—*Form of Notice of Trial.*

TRINIDAD.

In the Supreme Court.

A.B. v. C.D.

Take notice of trial of this action [*or of the issues in this action ordered to be tried*] by a judge and jury [*or as the case may be*] in Port of Spain [*or as the case may be*], for the day of next.

X.Y., plaintiff's Solicitor [*or as the case may be.*]

Dated

To Z., defendant's Solicitor [*or as the case may be.*]

VOL. IV.

R R

Form 34.

FORM 15.—*Interpleader Summons.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. and others Defendants.

In the matter of Q.R., a claimant of property seized under process of the Court in the above suit.

To Q.R., of, &c.

Take notice that you are hereby summoned to appear before the Supreme Court on the day of , at the hour of o'clock in the forenoon, to show cause why certain goods and chattels seized under the process of the Court in the above suit should not be declared and adjudged to be the property of the defendant; C.D.

Witness , Chief Justice of the said Island, this day of A.D. 1874.

Registrar.

FORM 16.—*Affidavit of Scripts.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. Defendant.

I, A.B., of , in the county of party in this cause, make oath and say, that no paper or parchment writing, being or purporting to be or having the form or effect of a will or codicil or other testamentary disposition of E.F., late of , in the county of , deceased, the deceased in this cause, or being or purporting to be instructions for, or the draft of, any will, codicil, or testamentary disposition of the said E.F., has at any time, either before or since his death, come to the hands, possession or knowledge of me, this deponent, or to the hands, possession, or knowledge of my solicitors in this suit, so far as is known to me, this deponent, save and except the true and original last will and testament of the said deceased now remaining in the registry of this Court [*or hereunto annexed, or as the case may be*], the said will bearing date the day of 18 [*or as the case may be*] also save and except [*here add the dates and particulars of any other testamentary papers of which the deponent has any knowledge*].

Sworn at on the day of A.B. 18

Before me,

[*Person authorised to administer oaths under the Ordinance.*]

APPENDIX (C.)

No. 1.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1875.

Between A.B.

and

E.F.

Plaintiff,
Defendant.Account
stated.*Statement of Claim.*

1. Between the 1st of January and the 28th of February, 1875, Claim.
the plaintiff supplied to the defendant various articles of drapery;

and accounts and invoices of the goods so supplied, and their prices,
were from time to time furnished to the defendant, and payments
on account were from time to time made by the defendant.

2. On the 28th of February, 1875, a balance remained due to the
plaintiff of £75. 9s., and an account was on that day sent by the
plaintiff to the defendant showing that balance.

3. On the 1st of March following, the plaintiff's collector saw the
defendant at his house, and asked for payment of the said balance,
and the defendant then paid him by cheque £25 on account of the
same. The residue of the said balance, amounting to £50. 9s., has
never been paid.

The plaintiff claims £

No. 2.

TRINIDAD.

In the Supreme Court.

Writ issued 22nd December, 1876.

In the matter of the estate of A.B., deceased.

Between E.F.

and

G.H.

Plaintiff,

Defendant.

Administra-
tion of estate.*Statement of Claim.*

1. A.B., of K., in the county of L., died on the 1st of July, 1875, Claim.
intestate. The defendant G.H. is the administrator of A. B.

2. A.B. died entitled to lands in the said county for an estate of
fee simple, and also to some other real estate and to personal
estate. The defendant has entered into possession of the real estate
of A.B., and received the rents thereof. The legal estate in such
real estate is outstanding in mortgagees under mortgages created
by the intestate.

3. A.B. was never married; he had one brother only, who pre-
deceased him without having been married, and two sisters only,
both of whom also pre-deceased him, namely M.N. and P.Q. The
plaintiff is the only child of M.N., and the defendant is the only
child of P.Q.

The plaintiff claims--

1. To have the real and personal estate of A. B. administered in this Court, and for that purposes have all proper directions given and accounts taken.
2. To have a receiver appointed of the rents of his real estate.
3. Such further or other relief as the nature of the case may require.

TRINIDAD.

In the Supreme Court.

In the matter of the estate of A.B., deceased.

Between E.F. Plaintiff,

and

G.H. Defendant.

Statement of Defence.

Defence.

1. The plaintiff is an illegitimate child of M.N. She was never married.
2. The personal estate of A. B. was not sufficient for the payment of his debts, and has all been applied in payment of his funeral and testamentary expenses, and part of his debts.

TRINIDAD.

In the Supreme Court.

In the matter of the estate of A.B., deceased.

Between E.F. Plaintiff,

and

G.H. Defendant.

Reply.

Reply.

The plaintiff joins issue with the defendant upon his defence.

No. 3.

TRINIDAD.

In the Supreme Court.

Writ issued 22nd December, 1876.

In the matter of the estate of A.B., deceased.

Between E.F. Plaintiff,

and

G.H. Defendant.

1. A.B. of K., in the county of L, duly made his last will, dated the 1st day of March, 1873, whereby he appointed the defendant and M.N., (who died in the testator's lifetime) executors thereof, and devised and bequeathed his real and personal estate to and to the use of his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age, or marry, upon trust as to his real estate for the person who would be the testator's heir-at-law, and as to his personal estate for the persons who would be the testator's next of kin if he had died intestate at

the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the 1st day of July, 1873, and his will was proved by the defendant on the 4th of October, 1873. The plaintiff has not been married.

3. The testator was at his death entitled to real and personal estate; the defendant entered into the receipt of the rents of the real estate and got in the personal estate: he has sold some part of the real estate.

The plaintiff claims—

1. To have the real and personal estate of A.B. administered in this Court, and for that purpose to have all proper directions given and accounts taken.
2. Such further or other relief as the nature of the case may require.

TRINIDAD.

In the Supreme Court.

In the matter of the estate of A.B., deceased.

Between E.F. Plaintiff,

and

G.H. Defendant.

Statement of Defence.

1. A.B.'s will contained a charge of debts; he died insolvent; he was entitled at his death to some real estate which the defendant sold, and which produced the net sum of £4,300, and the testator had some personal estate which the defendant got in and which produced the net sum of £1,204. The defendant applied the whole of the said sums and the sum of £84 which the defendant received from rents of the real estate in the payment of the funeral and testamentary expenses and some of the debts of the testator. The defendant made up his accounts and sent a copy thereof to the plaintiff on the 10th of January, 1875, and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer. The defendant submits that the plaintiff ought to pay the costs of this action.

TRINIDAD.

In the Supreme Court.

In the matter of the estate of A.B., deceased.

Between E.F. Plaintiff,

and

G.H. Defendant.

Reply.

The plaintiff joins issue with the defendant upon his defence. Reply.

Administration. TRINIDAD.

In the Supreme Court.

In the matter of the estate of W.H., deceased.

Writ issued 22nd December, 1876.

Between A.B. and C. his wife . . . Plaintiffs,
and

E.F. and G.H. . . . Defendants.

Statement of Claim.

Claim.

1. W.H., of H in the county of L., duly made his last will, dated the 19th day of March, 1861, whereby he appointed the defendants the executors thereof, and bequeathed to them all his personal estate in trust, to call in, sell, and convert the same into money, and thereout to pay his debts and funeral and testamentary expenses and to divide the ultimate surplus into three shares, and to pay one of such three shares to each of his two children, T.H., and E., the wife of E.W., and to stand possessed of the remaining third share upon trust for the children of the testator's son J.H., in equal shares, to be divided among them when the youngest of such children should attain the age of twenty-one years. And the testator devised his real estates to the defendants upon trust until the youngest child of the said J.H. should attain the age of twenty-one years, to pay one-third part of the rents thereof to the said T.H., and one other third part thereof to the said E.W., and to accumulate the remaining third part by way of compound interest, and so soon as the youngest child of the said J.H. should attain the age of twenty-one years, to sell the said real estates, and out of the proceeds of such sale to pay the sum of £1,000 to the said T.H., and to invest one moiety of the residue in manner therein mentioned, and stand possessed thereof in trust to pay the income thereof to the said E., the wife of the said E.W., during her life for her separate use, and after her death for her children, the interests of such children being contingent on their attaining the age of twenty-one years, and to divide the other moiety of such proceeds of sale and the accumulations of the third share of rents thereinbefore directed to be accumulated among such of the children of the said J.H. as should be then living, and the issue of such of them as should be then dead, in equal shares per stirpes.

2. The testator died on the 25th day of April, 1873, and his said will was proved by the defendants in the month of June, 1873.

3. The testator died possessed of one-third share in an usine or manufactory of refined sugar, and in the machinery, stock in trade, book debts, and effects belonging thereto. He was also entitled to other real and personal estate.

4. The testator left T.H., and E. the wife of E.W., him surviving. J.H. had died in the testator's lifetime, leaving four

children, and no more. The plaintiff C.B. is the youngest of the children of J.H., and attained the age of twenty-one years on the 1st of June, 1871. The other three children of J.H. died without issue in the lifetime of the testator.

5. E.W. has several children, but no child has attained the age of twenty-one years.

6. T.H. is the testator's heir-at-law.

7. The defendants have not called in, sold, and converted into money the whole of the testator's personal estate, but have allowed a considerable part thereof to remain outstanding; and in particular the defendants have not called in, sold, or converted into money the testator's interest in the said usine, but have, from the death of the testator to the present time, continued to work the same in partnership with the other persons interested therein. The estate of the testator has sustained considerable loss by reason of such interest not having been called in, sold, or converted into money.

8. The defendants did not upon the death of the testator, sell the testator's furniture, plate, linen and china, but allowed the testator's widow to possess herself of a great part thereof, without accounting for the same, and the same has thereby been lost to the testator's estate.

9. The defendants have not invested the share of the testator's residuary personal estate given by his will to the children of the testator's son J.H., and have not accumulated one-third of the rents and profits of his real estate as directed by the said will, but have mixed the same share and rents with their own moneys, and employed them in business on their own account.

10. The defendants have sold part of the real estates of the testator, but a considerable part thereof remains unsold.

11. A receiver ought to be appointed of the outstanding personal estate of the testator, and the rents and profits of his real estate remaining unsold.

The plaintiffs claim:—

1. That the estate of the said testator may be administered, and the trusts of his will carried into execution under the direction of the Court.
2. That it may be declared that the defendants, by carrying on the business of said usine, instead of realising the same, have committed a breach of trust, and that the parties interested in the testator's estate are entitled to the value of the testator's interest in the said partnership property as it stood at the testator's death, with interest thereon, or at their election to the profits which have been made by the defendants in respect thereof since the testator's death, whichever shall be found most for their benefit.
3. That an account may be taken of the interest of the testator in the said usine, and in the machinery, book debts, stock and effects belonging thereto, according to the value thereof at the testator's death, and an account

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- of all sums of money received by or by the order or for the use of the defendants, or either of them, on account of the testator's interest in the said usine, and that the defendants may be ordered to make good to the estate of the testator the loss arising from their not having realised the interest of the testator in the said usine within a reasonable time after his decease.
4. That an account may be taken of all other personal estate of the testator come to the hands of the defendants, or either of them, or to the hands of any other person by their or either of their order, or for their or either of their use, or which, but for their wilful neglect or default, might have been so received; and an account of the rents and profits of the testator's real estate, and the moneys arising from the sale thereof, possessed or received by or by the order, or for the use of the defendants or either of them.
 5. That the real estate of the testator remaining unsold may be sold under the direction of the Court.
 6. That the defendants may be decreed, at the election of the parties interested in the testator's estate, either to pay interest at the rate of £8 per cent. per annum upon such moneys belonging to the estate of the testator as they have improperly mixed with their own moneys and employed in business on their own account, and that half-yearly rests may be made in taking such accounts as respects all moneys which by the said will were directed to be accumulated, or to account for all profits by the employment in their business of the said trust money.
 7. That a receiver may be appointed of the outstanding personal estate of the testator, and to receive the rents and profits of his real estate remaining unsold.
 8. Such further or other relief as the nature of the case may require.

TRINIDAD.

In the Supreme Court.

Between A. B. and C., his wife . . . Plaintiffs,
and
E. F. and G. H. . . . Defendants.

Defence.

Statement of Defence of the above-named Defendants.

1. Shortly after the decease of the testator, the defendants, as his executors, possessed themselves of and converted into money the testator's personal estate, except his share in the usine mentioned in the plaintiffs' statement of claim. The moneys so arising were applied in payment of part of the testator's debts and funeral and testamentary expenses, but such moneys were not sufficient for the payment thereof in full.

2. The said usine was, at the testator's decease, worked by him in partnership with J. Y., and W. Y., and T. Y., both since deceased. No written articles of partnership had been entered into, and for many years the testator had not taken any part in the management of the said usine, but it was managed exclusively by the other partners, and the defendants did not know with certainty to what share therein the testator was entitled.

3. Upon the death of the testator, the defendants endeavoured to ascertain the value of the testator's share in the usine, but the other partners refused to give them any information. The defendants thereupon had the books of the usine examined by a competent accountant, but they had been so carelessly kept that it was impossible to obtain from them any accurate information respecting the state of the concern; it was, however, ascertained that a considerable sum was due to the testator's estate.

4. Between the death of the testator and the beginning of the year 1874 the defendants made frequent applications to J. Y., W. Y., and T. Y. for a settlement of the accounts of the usine. Such applications having proved fruitless, the defendants, in January, 1874, filed their bill of complaint in the Supreme Civil Court, against J. Y., W. Y., and T. Y., praying for an account of the partnership dealings between the testator and the defendants thereto, and that the partnership might be wound up under the direction of the Court.

5. The said T. Y. died in the year 1874, and the suit was revived against J. P. and T. S., his executors. The suit is still pending.

6. As to the said usine, the defendants have acted to the best of their judgment for the benefit of the testator's estate, and they deny being under any liability in respect of the testator's interest in the said usine not having been realised. They submit to act under the direction of the Court as to the further prosecution of the said suit and generally as to the realisation of the testator's interest in the said usine.

7. With respect to the statements in the eighth paragraph of the statement of claim, the defendants say, that upon the death of the testator, they sold the whole of his furniture, linen, and china, and also all his plate, except a few silver teaspoons of very small value, which were taken possession of by his widow, and they applied the proceeds of such sale as part of the testator's personal estate, and they deny being under any liability in respect of such furniture, linen, china, and plate.

8. With respect to the statements in paragraph seven of the statement of claim, the defendants say that all moneys received by them, or either of them, on account of the testator's estate, were paid by them to their executorship account at the Colonial Bank, and until the sale of the testator's real estate took place as hereinafter mentioned, the balance to their credit was never greater than was necessary for the administration of the trusts of the testator's will, and they therefore were unable to make any such investment

or accumulation as directed by the testator's will. No moneys belonging to the testator's estate have ever been mixed with the moneys of the defendants, or either of them, nor has any money of the testator's been employed in business since the testator's decease, except that his share in the said usine, for the reason hereinbefore appearing, has not been got in.

9. In 1874, after the plaintiff C. B. had attained her age of 21 years, the defendants sold the real estate of the testator for sums amounting to £15,080, and no part thereof remains unsold. They received the purchase moneys in December, 1874, and on the day of 1875 they paid such proceeds into Court to the credit of this action, with the exception of £500, retained on account of costs incurred and to be incurred by them.

TRINIDAD.

In the Supreme Court.

Between A. B. and C., his wife . . . Plaintiffs.

and

E. F. and G. H. . . . Defendants.

Reply.

The plaintiff joins issue with the defendants upon their defence.

No. 5.

Agent.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1875.

Between A. B. and Company . . . Plaintiffs.

and

E. F. and Company . . . Defendants.

Statement of Claim.

Claim.

1. The plaintiffs are manufacturers of artificial manures, carrying on business at

2. The defendants are commission agents, carrying on business in Port-of-Spain.

3. In the early part of the year , the plaintiffs commenced, and down to the 187 , continued to consign to the defendants, as their agents, large quantities of their manures for sale, and the defendants sold the same, and received the price thereof and accounted to the plaintiffs therefor.

4. No express agreement has ever been entered into between the plaintiffs and the defendants with respect to the terms of the defendants employment as agents. The defendants have always charged the plaintiffs a commission at per cent. on all sales effected by them, which is the rate of commission ordinarily charged by del credere agents in the said trade. And the defendants, in fact, always accounted to the plaintiffs for the price, whether they received the same from the purchasers or not.

5. The plaintiffs contend that the defendants are liable to them as del credere agents, but if not so liable are under the circumstances hereinafter mentioned as ordinary agents.

6. On the _____, the plaintiffs consigned to the defendants for sale a large quantity of goods, including _____ tons of _____

7. On or about the _____, the defendants sold _____ tons of _____ part of such goods to one G. H. for £ _____, at three months credit, and delivered the same to him.

8. G. H. was not at that time in good credit and was in insolvent circumstances, and the defendants might, by ordinary care and diligence, have ascertained the fact.

9. G. H. did not pay for the said goods, but before the expiration of the said three months for which credit had been given was adjudicated a bankrupt, and the plaintiffs have never received the said sum of £ _____ or any part thereof.

The plaintiffs claim :—

1. Damages to the amount of £ _____
2. Such further or other relief as the nature of the case may require.

[Title as in claim, omitting date of issue of writ.]

Statement of Defence.

1. The defendants deny that the said commission of _____ Defence. _____ per cent. mentioned in paragraph 4 of the claim is the rate of commission ordinarily charged by del credere agents in the said trade, and say that the same is the ordinary commission for agents other than del credere agents and they deny that they ever accounted to the plaintiffs for the price of any goods, except after they had received the same from the purchasers.

2. The plaintiffs deny that they were ever liable to the plaintiffs as del credere agents.

3. With respect to the eighth paragraph of the plaintiffs' statement of claim, the defendants say that at the time of the said sale to the said G. H., the said G. H. was a person in good credit. If it be true that the said G. H. was then in insolvent circumstances (which the defendants do not admit), the defendants did not and had no reason to suspect the same, and could not by ordinary care or diligence have ascertained the fact.

[Title as in defence.]

Reply.

The plaintiffs join issue upon the defendants' statement of defence. Reply.

Bill of
exchange.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A. B. and C. D. . . . Plaintiffs,
and
E. F. and G. H. . . . Defendants.

Statement of Claim.

Claim.

1. Messrs. M. N. and Co. on the day of
drew a bill of exchange upon the defendants for £
payable to the order of the said Messrs. M. N. and Co. three
months after date, and the defendants accepted the same
2. Messrs. M. N. and Co. indorsed the bill to the plaintiffs.
3. The bill became due on the , and the
defendants have not paid it.
The plaintiffs claim :—

[Title.]

Statement of Defence.

Defence.

1. The bill of exchange mentioned in the statement of claim was drawn and accepted under the circumstances hereinafter stated, and except as hereinafter mentioned there never was any consideration for the acceptance or payment thereof by the defendants.
2. Shortly before the acceptance of the said bill it was agreed between the said Messrs. M. N. & Co., the drawers thereof, and the defendants, that the said Messrs. M. N. & Co. should sell and deliver to the defendants free on board ship at the port of , 1,200 tons of coals during the month of , and that the defendants should pay for the same by accepting the said Messrs. M. N. & Co.'s draft for £ at six months.
3. The said Messrs. M. N. & Co. accordingly drew upon the defendants, and the defendants accepted the bill of exchange now sued upon.
4. The defendants did all things which were necessary to entitle them to delivery by the said Messrs. M. N. & Co. of the said 1,200 tons of coal under their said contract, and the time for delivery has long since elapsed; but the said Messrs. M. N. & Co. never delivered the same, or any part thereof, but have always refused to do so, whereby the consideration for the defendants acceptance has wholly failed.
5. The plaintiffs first received the said bill, and it was first endorsed to them after it was overdue.
6. The plaintiffs never gave any value or consideration for the said bill.
7. The plaintiffs took the said bill with notice of the facts stated in the second, third, and fourth paragraphs hereof.

[Title.]

Reply.

1. The plaintiffs join issue upon the defendants statement of Reply. defence.

2. The plaintiffs gave value and consideration for the said bill in manner following, that is to say, on the day of 187 the said Messrs. M. N. & Co. were indebted to the plaintiffs in about £ , the balance of an account for goods sold from time to time. On that day they ordered of the plaintiffs further goods to the value of about £ , which last-mentioned goods have since been delivered. And at the time of the order for such last-mentioned goods it was agreed between Messrs. M. N. & Co. and the plaintiffs, and the order was received upon the terms, that they should indorse and hand over to the plaintiffs the bill of exchange sued upon, together with various other securities on account of the said previous balance, and the price of the goods so ordered on that day. The said securities including the bill sued upon, were thereupon on the same day indorsed and handed over to the plaintiffs.

No. 7.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A.B. and C.D. . . . Plaintiffs,

and

E. F. and G. H. . . . Defendants.

Bill of exchange and consideration.

Statement of Claim.

1. The plaintiffs are merchants, factors, and commission agents, carrying on business in Port-of-Spain. Claim.

2. The defendants are merchants and commission agents, carrying on business in London.

3. For several years prior to the 1875, the plaintiffs had been in the habit of consigning goods to the defendants for sale, as their agents, and the defendants had been in the habit of consigning goods to the plaintiffs for sale, as their agents; and each party always received the price of the goods sold by him for the other; and a balance was from time to time struck between the parties, and paid.

On the of , the moneys so received by the defendants for the plaintiffs, and remaining in their names, largely exceeded the moneys received by the plaintiffs for the defendants, and a balance of £ was accordingly due to the plaintiffs from the defendants.

4. On or about the , 1875, the plaintiffs sent to the defendants a statement of the accounts between them,

showing the said sum as the balance due to the plaintiffs from the defendants; and the defendants agreed to the said statement of accounts as correct, and to the said sum of £ as the balance due by them to the plaintiffs, and agreed to pay interest on such balance if time were given to them.

5. The defendants requested the plaintiffs to give them three months time for payment of the said sum of £ and the plaintiffs agreed to do so upon the defendants accepting the bills of exchange hereinafter mentioned.

6. The plaintiffs thereupon on the drew two bills of exchange upon the defendants, one for £ and the other for £ , both payable to the order of the plaintiffs three months after date, and the defendants accepted the bills.

The said bills became due on the 187 , and the defendants have not paid the bills, or either of them, nor the said sum of £

The plaintiffs claim :—
£ and interest to the date of judgment.

No. 8.

Carriers by
sea.

TRINIDAD.

In the Supreme Court.

Writ issued [. . .] Plaintiffs,
Between A.B. and C.D. . . . and
E.F. and G.H. . . . Defendants.

Statement of Claim.

Claim.

1. In the month of February, 1873, Messrs. L. and Company of Port-of-Spain, caused to be shipped 6,110 hogsheads of sugar on board the vessel the "Ida," then lying in the harbour of Port-of-Spain, and the then master of the vessel received the same, to be carried from Port-of-Spain to London, upon the terms of three bills of lading, signed by the master, and delivered to Messrs. L. and Company.

2. The three bills of lading, being in form exactly similar to one another, were and are, so far as is material to the present case, in the words, letters, and figures, following, that is to say :—

"Shipped in good order and well conditioned by L & Co., Port-of-Spain, in and upon the good ship called the 'Ida,' whereof is master for the present voyage Ambrozio Chiapella, and now riding at anchor in the port of Port-of-Spain and bound for London, six thousand one hundred and ten hogsheads sugar being marked and numbered as in the margin, and are to be delivered in the like good order and well-conditioned at the aforesaid Port of London (the act of God, the Queen's enemies, fire, and all and

every other dangers and accidents of the seas, rivers, and navigation of whatever nature and kind soever, save risk of boats so far as ships are liable thereto excepted), unto order or to assigns paying freight for the said goods at the rate of (19s.) say nineteen shillings sterling in full per hogshead delivered with £10 gratuity. Other conditions as per charter-party, dated London, 4th October, 1872, with primage and average accustomed. In witness whereof the master or purser of the said ship hath affirmed to three bills of lading all of this tenor and date, the one of which three bills being accomplished the other two to stand void. Dated in Port-of-Spain, 6th February, 1873. Fifteen working days remain for discharging."

3. The persons constituting the firm of Messrs. L. and Company are identical with the members of the plaintiffs' firm.

4. The vessel sailed on her voyage to London, and duly arrived there on or about the 7th day of May, 1873.

5. The sugar was delivered to the plaintiffs, but not in as good order and condition as it was in when shipped at Port-of-Spain but was delivered to the plaintiffs greatly damaged.

6. The deterioration of the sugar was not occasioned by any of the perils or causes in the bills of lading excepted.

7. By reason of the premises the plaintiffs lost a great part of the value of the said sugar, and were put to great expense in and about keeping, warehousing, and improving the condition of the said sugar, and in and about having the same surveyed.

The plaintiffs claim the following relief:—

1. £ for damages.
2. Such further relief as the nature of the case requires.

[Title.]

Defence.

Statement of:—

1. They deny the truth of the allegations contained in the sixth, Defence, seventh, and eighth articles of the claim.

2. The deterioration, if any, to the sugar was occasioned by the character and quality of the sugar when shipped on board the "Ida," and by the inherent qualities of the sugar, and by the careless and unskilful manner in which the same was packed, and by shipping water in a severe storm which occurred on the day of in latitude during the voyage, or by some or one of such causes.

[Title.]

Reply.

The plaintiffs join issue upon the statement of defence.

Reply.

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TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A.B. and C.D. . . . Plaintiffs,

and

E.F. and G.H. . . . Defendants.

Statement of Claim.

Claim.

1. The plaintiffs were, on the 1st August, 1874, the owners of the steam-ship "British Queen."

2. On the 1st August, 1874, the ship being then in Calcutta, a charter-party was there entered into between John Smith, the master, on behalf of himself and the owners of the said ship of the one part, and the defendants of the other part.

3. By the said charter-party it was agreed, amongst other things, that the defendants should be entitled to the whole carrying power of the said steamship, for the period of four months certain, commencing from the said 1st August, 1874, upon a voyage or voyages between Calcutta and Mauritius and back; that the defendants should pay for such use of the said steamship to the plaintiffs' agent at Calcutta, monthly, the sum of £1,000; that the charter should terminate at Calcutta; and that if at the expiration of the said period of four months the said steamship should be upon a voyage, then the defendants should pay pro rata for the hire of the ship up to her arrival at Calcutta, and the complete discharge of her cargo there.

4. The "British Queen" made several voyages in pursuance of the said charter-party, and the first three monthly sums of £1,000 each were duly paid.

5. The period of four months expired on the 1st December, 1874, and at that time the steamship was on a voyage from Mauritius to Calcutta. She arrived at Calcutta on the 13th December, and the discharge of her cargo there was completed on the 16th December, 1874.

6. The plaintiffs' agents at Calcutta called upon the defendants to pay to them the fourth monthly sum of £1,000, and a sum of £500 for the hire of the steamship from the 1st to the 16th December, 1874, but the defendants have not paid any part of the said sums.

The plaintiffs claim—

The sum of £1,500, and interest upon £1,000, part thereof, from the 1st December, 1874, until judgment.

[Title.]

Statement of Defence and Counter-claim.

Defence.

1. By the charter-party sued upon it was expressly provided that if any accident should happen to, or any repairs should become necessary to the engines or boilers of the said steamship,

the time occupied in repairs should be deducted from the period of the said charter, and a proportionate reduction in the charter money should be made.

2. On the repairs became necessary to the engines and boilers of the steamship, and ten days were occupied in effecting such repairs.

3. On the an accident happened to the engines of the steamship at Mauritius, and two days were occupied in effecting the repairs necessary in consequence thereof.

4. The defendants are therefore entitled to a reduction in the charter money of 400%.

By way of set-off and counter-claim the defendants claim as follows:—

5. By the charter-party it was expressly provided that the charterers should furnish funds for the steamship's necessary disbursements, except in the port of Calcutta, without any commission or interest on any sum so advanced.

6. The defendants paid for the necessary disbursements of the ship in the port of Mauritius between the and the 1874, sums amounting in all to £625. 14s. 6d.

7. The charter-party also contained an express warranty that the steamship was at the date thereof capable of steaming nine knots an hour on a consumption of 30 tons of coal a day, and it was further provided by the charter-party that the charterers should provide coal for the use of the said steamship.

8. The steamship was at the date of the charter-party only capable of steaming less than eight knots to an hour, and that only on a consumption of more than 35 tons of coal a day.

9. In consequence of the matters mentioned in the last paragraph, the steamship finally arrived at Calcutta at least 15 days later and remained under charter at least 15 days longer than she would otherwise have done. She was also during the whole period of the said charter at sea for a much larger number of days than she would otherwise have been, and consumed a much larger quantity of coal on each of such days than she would otherwise have done, whereby the defendants were obliged to provide for the use of the steamship much larger quantities of coal than they would otherwise have been.

The defendants claim—

£ damages in respect of the matters stated in this set-off and counter-claim.

[Title.]

Reply.

1. The plaintiffs join issue upon the second, third, and fourth paragraphs of the defendant's statement of defence.

2. With respect to the alleged set-off stated in paragraph 6 the plaintiffs do not admit the correctness of the amount therein stated. And all sums advanced by them for disbursements were paid or allowed to them by the plaintiffs by deducting the amount

thereof from the third monthly sum of £1,000 paid (subject to such deduction) to the plaintiffs' agents at Calcutta by the defendant on or about the 12th November 1874.

3. With respect to the alleged breach of warranty and the alleged damages therefrom stated in the 7th, 8th and 9th paragraphs, the plaintiffs say that the steamship was at the date of the charter-party capable of steaming nine knots an hour on a consumption of 30 tons of coal a day. If the steamship did not, during the said charter, steam more than eight knots an hour, and that on a consumption of more than 35 tons a day, as alleged (which the plaintiffs do not admit), it was in consequence of the bad and unfit quality of the coals provided by the defendants for the ship's use.

[Title.]

Joinder of Issue.

Rejoinder. The defendants join issue upon the plaintiffs' reply to their set-off and counter-claim.

No. 10.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August 1878.

Between A.B. . . . Plaintiff,

and

E.F. . . . Defendant.

Statement of Claim.

Claim.

1. The plaintiff is a journeyman painter. The defendant is a builder, having his building yard, and carrying on business at and for six months before and up to the 22nd August 18 the plaintiff was in the defendant's employment as a journeyman painter.

2. On the said 22nd August 18 , the plaintiff came to work as usual in the defendant's yard, at about six o'clock in the morning.

3. A few minutes after the plaintiff had so come to work the defendant's foreman X.Y., who was then in the yard, called the plaintiff to him, and accused the plaintiff of having on the previous day stolen a quantity of paint, the property of the defendant, from the yard. The plaintiff denied the charge, but X.Y. gave the plaintiff into the custody of a constable, whom he had previously sent for, upon a charge of stealing paint.

4. The defendant was present at the time when the plaintiff was given into custody, and authorised and assented to his being so given into custody; and in any case X.Y., in giving him into custody, was acting within the scope and in the course of his em-

ployment as the defendant's foreman, and for the purpose of the defendant's business.

5. The plaintiff upon being so given into custody, was taken by the said constable a considerable distance through various streets, on foot, to the police station, and he was there detained in a cell till late in the same afternoon, when he was taken to the police court, and the charge against him was heard before the magistrate then sitting there, and was dismissed.

6. In consequence of being so given into custody, the plaintiff suffered annoyance and disgrace, and loss of time and wages, and loss of credit and reputation, and was thereby unable to obtain any employment or earn any wages for three months.

The plaintiff claims £ damages.

[Title.]

Statement of Defence.

1. The defendant denies that he was present at the time when the plaintiff was given into custody, or that he in any way authorised or assented to his being given into custody. And the said X.Y., in giving the plaintiff into custody, did not act within the scope or in the course of his employment as the defendant's foreman, or for the purposes of the defendant's business. Defence.

2. At some time about five or six o'clock on the evening before the plaintiff was given into custody, a large quantity of paint had been feloniously stolen by some person or persons from a shed upon the defendant's yard and premises.

3. At about 5.30 o'clock on the evening of the the plaintiff, who had left off work about half an hour previously, was seen coming out of the shed when no one else was in it, although his work lay in a distant part of the yard from and he had no business in or near the shed. He was then seen to go to the back of a stack of timber in another part of the yard. Shortly afterwards the paint was found to have been stolen, and it was found concealed at the back of the stack of timber behind which the plaintiff had been seen to go.

4. On the following morning, before the plaintiff was given into custody, he was asked by X.Y. what he had been in the shed and behind the stack of timber for, and he denied having been in either place. X.Y. had reasonable and probable cause for suspecting, and did suspect that the plaintiff was the person who had stolen the paint, and thereupon gave him into custody.

[Title.]

Reply.

The plaintiff joins issue upon the defendant's statement of Reply. defence.

TRINIDAD.

Foreclosure.

In the Supreme Court.

Writ issued [. . .]
 Between R.W. . . . Plaintiff,
 and
 O.S. and J.B. . . . Defendants.

Statement of Claim.

Claim.

1. By an indenture dated the 25th of March 1867, made between the defendant O.S. of the one part, and the plaintiff of the other part, the defendant, in consideration of the sum of £10,000 paid to him by the plaintiff, conveyed to the plaintiff and his heirs a farm containing 398 acres, situate in the parish of B., in the county of D., with all the coal mines, seams of coal, and other mines and minerals in and under the same, subject to a proviso for redemption of the same premises on payment by the defendant O.S., his heirs, executors, administrators, or assigns, to the plaintiff, his executors, administrators, or assigns, of the sum of £10,000, with interest for the same in the meantime, at the rate of £7 per cent. per annum, on the 25th day of September then next.

2. By an indenture dated the 1st day of April, 1867, made between the defendant O. S. of the one part, and the defendant J. B. of the other part, the defendant O. S. conveyed to the defendant J. B. and his heirs the hereditaments comprised in the hereinbefore stated security of the plaintiff, or some parts thereof, subject to the plaintiff's said security, and subject to a proviso for redemption of the same premises on payment by the defendant, O. S., his heirs, executors, administrators, or assigns, to the defendant J. B., his executors, administrators, or assigns, of the sum of £15,000, with interest for the same in the meantime at the rate of £8 per cent. per annum.

3. The whole of the said sum of £10,000, with an arrear of interest thereon, remains due to the plaintiff on his said security.

The plaintiff claims as follows:—

1. That an account may be taken of what is due to the plaintiff for principal money and interest on his said security, and for his costs of this action, and that the defendants may be decreed to pay to the plaintiff what shall be found due to him on taking such account, by a day to be appointed by the court, the plaintiff being ready and willing, and hereby offering, upon being paid his principal money, interest, and costs, at such appointed time, to convey the said mortgaged premises as the court shall direct.
2. That in default of such payment the mortgaged premises may be sold under the direction of this Honourable

Court, and the monies arising from such sale applied in or towards payment to the plaintiff of what shall be found due to him aforesaid.

3. Such further or other relief as the nature of the case may require.

TRINIDAD.

In the Supreme Court.

Between R. W.

Plaintiff,

and

O. S. and J. B.

Defendants

(by original action),

And between the said O. S.

Plaintiff,

and

The said R. W. and J. B., and J. W.

Defendants

(by counter-claim).

The Defence and Counterclaim of the above-named O. S.

1. This defendant does not admit that the contents of the indenture of the 25th day of March, 1867, in the plaintiff's statement of complaint mentioned, are correctly stated therein. Defence.

2. The indenture of the 1st day of April, 1867, in the statement of claim-mentioned, was not a security for the sum of £15,000 and interest at £8 per cent. per annum, but for the sum of £14,000 only, with interest at the rate of £7. 10s. per cent. per annum.

3. This defendant submits that under the circumstances in his counter-claim mentioned, the said indentures of the 25th day of March, 1867, and the 1st day of April, 1867, did not create any effectual security upon the mines and minerals in and under the lands in the same indentures comprised, and that the same mines and minerals ought to be treated as accepted out of the said securities.

And by way of counter-claim this defendant states as follows:— Counter-claim.

1. At the time of the execution of the indenture next hereinafter stated, J. C. A. was seised in fee simple in possession of the lands described in the said indentures, and the mines and minerals in and under the same.
2. By indenture dated the 24th of March, 1860, made between the said J. C. A., of the first part, E., his wife, then E. S., spinster, of the second part, and this defendant and the above-named J. W., of the third part, being a settlement made in contemplation of the marriage, shortly after solemnized, between the said J. C. A. and his said wife, the said J. C. A. granted to this defendant and the said J. W., and their heirs, all the coal mines, beds of coal, and other the mines and minerals under the said lands, with such powers

and privileges as in the now-stating indenture mentioned, for the purpose of winning, working, and getting the same mines and minerals, to hold the same premises to this defendant and the said J. W. and their heirs to the use of the said J. C. A., his heirs and assigns, till the solemnization of the said marriage, and after the solemnization thereof to the use of this defendant and the said J. W., their executors and administrators, for the term of 500 years, from the day of the date of the now-stating indenture upon the trusts therein mentioned, being trusts for the benefit of the said J. C. A., and his wife and the children of their marriage, and from and after the expiration or other determination of the said term of 500 years, and in the meantime subject thereto, to the use of the said J. C. A., his heirs and assigns for ever.

3. By indenture dated the 12th of May, 1860, made between the said J. C. A., of the one part, and W. N., of the other part, the said J. C. A. granted to the said W. N. and his heirs the said lands, except the coal mines, beds of coal, and other mines and minerals thereunder, to hold the same premises unto and to the use of the said W. N., his heirs and assigns for ever, by way of mortgage, for securing the payment to the said W. N., his executors, administrators, or assigns of the sum of £26,000, with interest as therein mentioned.
4. On the 14th of January, 1864, the said J. C. A. was adjudicated a bankrupt, and shortly afterwards J. L. was appointed creditors' assignee of his estate.
5. Some time after the said bankruptcy, the said W. N., under a power of sale in his said mortgage deed, contracted with this defendant for the absolute sale to this defendant of the property comprised in his said security for an estate in fee simple in possession, free from incumbrances, for the sum of £26,000, and the said J. L., as such assignee as aforesaid, agreed to join in the conveyance to this defendant for the purpose of signifying his assent to such sale.
6. By indenture dated the 1st of September, 1866, made between the said W. N., of the first part, the said J. L., of the second part, the said J. C. A., of the third part, and this defendant, of the fourth part, reciting the said agreement for sale, and reciting that the said J. L., being satisfied that the said sum of £26,000 was a proper price, had, with the sanction of the Court of Bankruptcy, agreed to confirm the said sale, it was witnessed that in consideration

of the sum of £26,000, with the privity and approbation of the said J. L., paid by this defendant to the said W. N., he, the said W. N., granted, and the said J. C. A. ratified and confirmed to this defendant and his heirs, all the hereditaments comprised in the said security of the 12th day of May, 1860, with their rights, members, and appurtenances, and all the estate, right, title, and interest of them, the said W. N. and J. C. A. therein, to hold the same premises unto and to the use of this defendant, his heirs and assigns for ever.

7. The sale to this defendant was not intended to include anything not included in the security of the 12th of May, 1860, and the said J. L. only concurred therein to signify his approval of the said sale, and did not purport to convey any estate vested in him; and the lastly hereinbefore stated indenture did not vest in this defendant any estate in the said mines and minerals.
8. The plaintiff and the defendant J. B. respectively had before they advanced to this defendant the moneys lent by them on their securities in the plaintiff's claim mentioned, full notice that the mines and minerals under the said lands did not belong to this defendant. This fact appeared on the abstracts of title delivered to them before the preparation of their said securities. A valuation of the property made by a surveyor was furnished to them respectively on behalf of this defendant before they agreed to advance their money on their said securities; but although the said lands are in a mineral district, the mines and minerals were omitted from such valuation, and they respectively knew at the time of taking their said securities that the same did not include any interest in the mines and minerals.
9. At the time when the securities of the plaintiff and the defendant J. B. were respectively executed, the plaintiff and the defendant J. B. respectively had notice of the said indenture of settlement of the 24th day of March, 1860.
10. At the time when the plaintiff's security was executed the mines and minerals under the said lands, with such powers and privileges as aforesaid, were vested in this defendant and the said J. W. for the residue of the said term of 500 years, and subject to the said term the inheritance in the same mines, minerals, powers and privileges was vested in the said J. L. as such assignee as aforesaid.
11. The said security to the plaintiff was by mistake framed so as to purport to include the mines and minerals

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under the said lands, and by virtue thereof the legal estate in moiety of the said mines and minerals became and now is vested in the plaintiff for the residue of the said term of 500 years.

The defendant O. S. claims as follows:—

1. That it may be declared that neither the plaintiff nor the defendant J. B. has any charge or lien upon that one undivided moiety, which in manner aforesaid became vested in the plaintiff for the residue of the said term of 500 years, of and in the mines and minerals in and under the lands mentioned in the plaintiff's said security.
2. That it may be declared that the said mines and minerals, rights, and privileges which by the said indenture of settlement were vested in the defendant O. S. and the said J. W. for the said term of 500 years, upon trust as therein mentioned, ought to be so conveyed and assured as that the same may become vested in the defendant O. S. and the said J. W. for all the residue of the said term upon the trusts of the said settlement.
3. That the said R. W. and J. W. may be decreed to execute all such assurances as may be necessary for giving effect to the declaration secondly hereinbefore prayed.
4. To have such further or other relief as the nature of the case may require.

TRINIDAD,

In the Supreme Court.

Between R. W.	.	.	.	Plaintiff,
			and	
O. S. and J. B.	.	.	.	Defendants
				(by original action),
And between the said O. S.	.	.	.	Plaintiff,
			and	
The said R. W., and J. B., and J. W.	.	.	.	Defendants
				(by counter-claim).

The Reply of the Plaintiff R. W.

Reply.

1. The plaintiff joins issue with the defendants upon their several defences, and in reply to the statements alleged by the defendant O. S., by way of counter-claim, the plaintiff says as follows:—

1. The plaintiff does not admit the execution of any such indenture as is stated in the said counter-claim to bear date the 24th of March, 1860.
2. The plaintiff does not admit that the indenture of the 12th of May, 1860, is stated correctly in the statement of claim.
3. When the defendant O. S., in the year 1866, applied to

the plaintiff to advance him the sum of £10,000, he offered to the plaintiff as a security the lands which were afterwards comprised in the indenture of the 25th of March, 1867, including the mines and minerals which he now alleges were not to form part of the security, and the plaintiff agreed to lend the said sum upon the security of the said lands, including such mines and minerals. During the negotiation for the said loan a valuation of the property to be included in the mortgage was delivered to the plaintiff on behalf of the said defendant. Such valuation included the mines and minerals; and the plaintiff consented to make the loan on the faith of such valuation. The plaintiff did not know when he took his security that it did not include any interest in the said mines and minerals; on the contrary, he believed that the entirety of such mines and minerals was to be included therein.

4. The plaintiff does not admit the contents of the indenture of the 1st of September, 1866, to be as alleged, or that it was so framed as not to include the said mines and minerals, or that it was not intended to include anything not included in the security of the 12th of May, 1860, or that J. L. in the counter-claim named only concurred therein to signify his approval of the said sale, and did not purport to convey any estate vested in him.
5. Save so far as the plaintiff's solicitor may have had notice by means of the abstract of title that the mines and minerals under the said lands did not belong to the defendant O. S., the plaintiff had not any notice thereof, and he does not admit that it appeared from the abstract of title that such was the case. The mines were not omitted from any valuation delivered to the plaintiff as mentioned in the counter-claim.
6. The plaintiff admits that when he took his security he was aware that there was indorsed on the deed by which the said lands were conveyed by J. C. A. in the counter-claim named a notice of a settlement of 24th March, 1860, but he had no further or other notice thereof, and though his solicitor enquired after such settlement none was ever produced.
7. The plaintiff submits that if it shall appear that no further interest in the said mines and minerals was conveyed to him by his said security that one undivided moiety of a term of 500 years therein, as alleged by the said counter-claim, such interest is effectually included in the plaintiff's said security.

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TRINIDAD.

Fraud.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A. B. . . . Plaintiff,
 and
 E. F. . . . Defendant.

Statement of Claim.

Claim.

1. In or about March, 1875, the defendant caused to be inserted in the Port-of-Spain Gazette an advertisement, in which he offered for sale the lease, fixtures, fittings, goodwill, and stock-in-trade of a baker's shop and business, and described the same as an increasing business, and doing 12 sacks a week. The advertisement directed application for particulars to be made to X. Y.

2. The plaintiff having seen the advertisement applied to X. Y., who placed him in communication with the defendant, and negotiations ensued between the plaintiff and the defendant for the sale to the plaintiff of the defendant's bakery at with the lease, fixtures, fittings, stock-in-trade, and goodwill.

3. In the course of these negotiations the defendant repeatedly stated to the plaintiff that the business was a steadily increasing business, and that it was a business of more than 12 sacks a week.

4. On the 5th of April, 1875, the plaintiff, believing the said statements of the defendant to be true, agreed to purchase the said premises from the defendant for £500, and paid to him a deposit of £200 in respect of the purchase.

5. On the 15th April the purchase was completed, an assignment of the lease executed, and the balance of the purchase money paid. On the same day the plaintiff entered into possession.

6. The plaintiff soon afterwards discovered that at the time of the negotiations for the said purchase by him and of the said agreement, and of the completion thereof, the said business was and had long been a declining business; and at each of those times, and for a long time before, it had never been a business of more than 8 sacks a week. And the said premises were not of the value of £500, or of any saleable value whatever.

7. The defendant made the false representations hereinbefore mentioned well knowing them to be false, and fraudulently, with the intention of inducing the plaintiff to make the said purchase on the faith of them.

The plaintiff claims £ . . . damages.

[Title.]

Statement of Defence.

1 The defendant says that at the time when he made the representations mentioned in the third paragraph of the statement of claim, and throughout the whole of the transactions between the plaintiff and defendant, and down to the completion of the purchase and relinquishment by the defendant of the said shop and business to the plaintiff, the said business was an increasing business, and was a business of over 12 sacks a week. And the defendant denies the allegations of the sixth paragraph of the statement of claim.

2. The defendant repeatedly during the negotiations told the plaintiff that he must not act upon any statement or representation of his, but must ascertain for himself the extent and value of the said business. And the defendant handed to the plaintiff for this purpose the whole of his books, showing fully and truthfully all the details of the said business, and from which the nature, extent, and value thereof could be fully seen, and those books were examined for that purpose by the plaintiff, and by an accountant on his behalf. And the plaintiff made the purchase in reliance upon his own judgment, and the result of his own inquiries and investigations, and not upon any statement or representation whatever of the defendant.

[Title.]

Reply

The plaintiff joins issue upon the defendant's statement of defence.

No. 13.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A. B. and C. D. . . . Plaintiffs,

and

E. F. and G. H. . . . Defendants.

Guarantee.

Statement of Claim.

1. The plaintiffs are merchants and dealers in estates supplies, carrying on their business at Port-of-Spain, under the firm of X. Y. and Co.

2. In the month of March, 1872, M. N. was desirous of entering into the employment of the plaintiffs as a clerk and collector, and it was agreed between the plaintiffs and the defendants and M. N., that the plaintiffs should employ M. N. upon the defendant entering into the guarantee hereinafter mentioned.

3. An agreement in writing was accordingly made and entered into on or about the 30th March, 1872, between the plaintiffs and the defendant, whereby in consideration that the plaintiffs would employ M. N. as their collector the defendant agreed that he would be answerable for the due accounting by M. N. to the plaintiffs for and the due payment over by him to the plaintiffs of all moneys which he should receive on their behalf as their collector.

4. The plaintiffs employed M. N. as their collector accordingly, and he entered upon the duties of such employment, and continued therein down to the 31st of December, 1873.

5. At various times between the 29th of September and the 25th of December, 1873, M. N. received on behalf of the plaintiffs and as their collector sums of money from debtors of the plaintiffs amounting in the whole to the sum of £950; and of this amount M. N. neglected to account for or pay over to the plaintiffs sums amounting in the whole to £227, and appropriated the last-mentioned sums to his own use.

6. The defendant has not paid the last-mentioned sums, or any part thereof to the plaintiffs.

The plaintiffs claim:—

No. 14.

TRINIDAD.

Interest suit
(Probate).

In the Supreme Court,
Between A. B.

and

C. D. Defendant.

Plaintiff,

Defendant.

Claim.

Statement of Claim.

1. M. N. late of Marine Square, Port-of-Spain, grocer and provision dealer, deceased, died on or about the day of in Port-of-Spain, aforesaid, a widower, without a child, parent, brother or sister, uncle or aunt, nephew or niece.

2. The plaintiff is the cousin-german, and one of the next of kin of the deceased.

The plaintiff claims:—

That the Court decree to him a grant of letters of administration of the personal estate and effects of the said deceased as his lawful cousin-german, and one of his next of kin.

[Title.]

Defence.

Defence.

1. The defendant admits that M. N. died a widower, without child, parent, brother or sister, uncle or aunt, or niece, but he denies that he died without nephew.

2. The deceased had a brother named G. B., who died in his lifetime.

3. G. B. was married to E. H. in the church of _____ in the ward of _____ on the _____ day of _____ and had issue of such marriage, the defendant who was born in the month of _____ and is the nephew and next of kin of the deceased.

The defendant therefore claims :—

That the Court pronounce that he is the nephew and next of kin of the deceased, and as such entitled to a grant of letters of administration of the personal estate and effects of the deceased.

[Title.]

Reply.

Reply.

1. The plaintiff denies that G. B. was married to E. H.
2. He also denies that the defendant is the issue of such marriage.

No. 15.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Landlord and
tenant.

Between A. B. Plaintiff,

and

C. D. Defendant.

Statement of Claim.

1. On the _____ day of _____ the plaintiff, by deed, Claim. let to the defendant a house and premises, No. 52, _____ Street, in Port-of-Spain, for a term of 21 years from the _____ day of _____, at the yearly rent of £125, payable monthly.
2. By the said deed the defendant covenanted to keep the said house and premises in good and tenantable repair.
3. The said deed also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved whether demanded or not, should be in arrear for 21 days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.
4. On the 1st June, 18 _____, a month's rent became due, and on the 1st July, 18 _____ another month's rent became due; on the 1st August, 18 _____ both had been in arrear for 21 days, and both are still due.
5. On the same 1st August 18 _____ the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value.

The plaintiff claims : —

1. Possession of the said house and premises.
2. £ for arrears of rent.
- 3 £ damages for the defendant's breach of his covenant to repair.
4. £ for the occupation of the house and premises from the 1st July 18 to the day of recovering possession.

No. 16.

TRINIDAD.

Negligence.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A.B. Plaintiff,

and

E.F. Defendant.

Claim.

Statement of Claim.

1. The plaintiff is a shoemaker, carrying on business at
The defendant is a merchant and store-keeper of

2. On the 23rd of May, 1875, the plaintiff was walking southward along the east side Frederick Street, in Port of Spain, at about three o'clock in the afternoon. He was obliged to cross

Street, which is a street running into Frederick Street at right angles on the east side. While he was crossing this street, and just before he could reach the foot pavement on the further side thereof, a cart of the defendant's, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Frederick Street into Street. One of the shafts struck the plaintiff and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims £ damages.

[Title.]

Defence.

Statement of Defence.

1. The defendant denies that the cart was the defendant's cart, or that it was under the charge or control of the defendant's servant. The cart belonged to Mr. John Smith, of a builder employed by the defendant to enlarge his premises; and the persons under whose charge and control the said cart was were the servants and workmen of the said Mr. John Smith.

2. The defendant does not admit that the cart was turned out

of Frederick Street, either negligently, suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the cart approaching him and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the statement of claim.

[Title.]

Reply.

The plaintiff joins issue upon the defendant's statement of Reply. defence.

No. 17.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A.B. . . . Plaintiff,

and

E.F. . . . Defendant.

Promissory
note.

Statement of Claim.

1. The defendant on the . . . day of . . . made his Claim. promissory note, whereby he promised to pay to the plaintiff or his order £ . . . three months after date.

2. The note became due on the . . . day of . . . 1874 and the defendant has not paid it.

The plaintiff claims:—

The amount of the note and interest thereon to judgment.

[Title.]

Statement of Defence.

1. The defendant made the note sued upon under the following Defence. circumstances:—The plaintiff and defendant had for some years been in partnership as merchants, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities, and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership books, and inquire into the state of the partnership assets and liabilities; and he did accordingly examine the books, and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded £10,000, and that the liabilities of the firm were under £3,000, whereas the fact was that the

assets of the firm were less than £5,000, and the liabilities of the firm largely exceeded the assets.

3. The misrepresentation mentioned in the last paragraph induced the defendant to make the note now sued on, and there never was any other consideration for the making of the note.

[Title.]

Reply.

Reply. The plaintiff joins issue on the defence.

No. 18.

TRINIDAD.

Probate of
will in solemn
form.

In the Supreme Court.

Writ issued [

Between A.B.

] Plaintiff,

and

E.F.

Defendant.

Statement of Claim.

Claim.

1. C. T., late of San Fernando, gentleman, deceased, who died on the 20th of January, 1875, at San Fernando, being of the age of 21 years, made his last will, with one codicil thereto, the said will bearing date the 1st of October, 1874, and the said codicil the 1st of January, 1875, and in the said will appointed the plaintiff sole executor thereof.

2. The said will and codicil were signed by the deceased [*or, by X. Y., in the presence and by the directions of the deceased, or signed by the deceased, who acknowledged his signature, or as the case may be*] in the presence of two witnesses present at the same time, the said will in the presence of H. P. and J. R., and the said codicil in the presence of J. D. and G. E., and who subscribed the same in the presence of the said deceased.

3. The deceased was at the time of the execution of the said will and codicil respectively of sound mind, memory, and understanding.

The plaintiff claims:—

That the Court shall decree probate of the said will and codicil, in solemn form of law.

[Title.]

Statement of Defence.

Defence.

The defendant says as follows:—

1. The said will and codicil of the said deceased were not duly executed according to the provisions of the Ordinance in that behalf.

2. The deceased at the time the said will and codicil respec-

tively purport to have been executed was not of sound mind, memory, and understanding.

3. The execution of the said will and codicil was obtained by the undue influence of the plaintiff [and others acting with him, whose names are at present unknown to the defendant].

4. The execution of the said will and codicil was obtained by the fraud of the plaintiff, such fraud, so far as is within the defendant's present knowledge being [*state the nature of the fraud*].

5. The said deceased at the time of the execution of the said will and codicil did not know and approve of the contents thereof, or of the contents of the residuary clause in the said will [*as the case may be*].

6. The deceased made his true last will, dated the 1st day of January, 1873, and in the said will appointed the defendant sole executor thereof. [*Propound this will as in paragraphs 2 and 3 of claim*].

The defendant claims:—

1. That the Court will pronounce against the said will and codicil propounded by the plaintiff.
2. That the Court will decree probate of the said will of the said deceased, dated the 1st of January, 1873, in solemn form of law.

[Title]

Reply.

1. The plaintiff joins issue upon the statement of defence of the defendant, as contained in the first, second, third, fourth and fifth paragraphs thereof. Reply.

2. The plaintiff says that the said will of the said deceased, dated the 1st of January was duly revoked by the will of the said 1st of October, 1873, propounded by the plaintiff in his statement of claim.

No. 19.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A. B.

and

Plaintiff,

C. D.

Defendant.

Recovery of
land, land-
lord and
tenant.

Statement of Claim.

1. On the day of the plaintiff let to the defendant a house, No. 52, street, in Port of Spain, as tenant from year to year, at the yearly rent of £125, payable monthly, the tenancy to commence on the day of Claim.

2. The defendant took possession of the house and continued tenant thereof until the day of last, when the tenancy determined by a notice duly given.

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[Title.]

Joinder of Issue.

The defendant C.D. joins issue upon the plaintiff A.B.'s statement in reply.

No. 20.

TRINIDAD.

In the Supreme Court.

Writ issued 3rd August, 1876.

Between A.B. and C.D.

Plaintiffs,

and

E.F.

Defendant.

Recovery of land.

Statement of Claim.

1. K.L., late of Bonheur estate in the county of executed his last will, dated the 4th day of April, 1870, and thereby devised the said Bonheur estate, and all other his lands unto and to the use of the plaintiffs and their heirs, upon the trusts therein mentioned for the benefit of his daughters Margaret and Martha, and appointed the plaintiffs executors thereof.

Claim.

2. K.L. died on the 3rd day of January, 1875, and his said will was proved by the plaintiffs on or about the 4th day of February, 1875.

3. K.L. was at the time of his death seised in fee of the said Bonheur estate.

4. The defendant, soon after the death of K.L., entered into possession of the said Bonheur estate, and has refused to give it up to the plaintiffs.

The plaintiffs claim :

1. Possession of the said Bonheur estate.

2. £ for mesne profits of the premises from the death of K.L. till such possession shall be given.

[Title.]

Statement of Defence.

1. The defendant is the eldest son of I.L. deceased, who was the eldest son and heir-at-law of K.L., in the statement of claim named. Defence.

2. By articles bearing date the 31st day of May, 1827, and made previous to the marriage of K.L., with Martha his intended wife, K.L., in consideration of such intended marriage, agreed to settle the Bonheur estate in the statement of claim mentioned (and of which he was then seised in fee to the use of himself for his life, with remainder to the use of his intended wife for her life, and after the survivor's decease, to the use of the heirs of the body of the said K.L., on his wife begotten, with other remainders over.

3. The marriage soon after took effect, and K.L., by deeds of lease and release, bearing date respectively the 4th and 5th of April, 1828, after reciting the articles, in alleged performance of them, conveyed the said Bonheur estate to the use of himself for his life, with remainder to the use of his wife for her life, and after the decease of the survivor of them, to the use of the heirs of the body of K.L. on the said Martha to be begotten, with other remainders over.

4. There was issue of the marriage an only son, Thomas L. and two daughters. After the death of Thomas L. which took place in February, 1864, K.L., on the 3rd May, 1864, duly executed a disentailing assurance, and thereby conveyed the said Bonheur estate to the use of himself in fee.

[Title.]

Reply.

Reply. The plaintiffs join issue upon the defendant's statement of defence.

No. 21.

TRINIDAD.

Trespass to
Land.

In the Supreme Court,

Writ issued 3rd August, 1876.

Between A.B. Plaintiff,

and

E.F. Defendant.

Statement of Claim.

Claim.

1. The plaintiff was on the 5th March, 1876, and still is the owner and occupier of an estate called Les Enfers, in the ward of and county of

2. A private road, known as Les Enfers Lane, runs through a portion of the plaintiff's estate. It is bounded upon both sides by a cane piece of the plaintiff's, and is separated therefrom by a canal.

3. For a long time prior to the 5th March, 1876, the defendant had wrongfully claimed to use the said road for his horses and carriages on the alleged ground that the same was a public highway, and the plaintiff had frequently warned him that the same was not a public highway, but the plaintiff's private road, and that the defendant must not so use it.

4. On the 5th March, 1876, the defendant came with a cart and horse, and a large number of servants and workmen, and forcibly used the road, and broke down and removed a gate which the plaintiff had caused to be placed across the same.

5. The defendant and his servants and workmen on the same occasion damaged the plaintiff's canal upon each side of the road,

and went upon the plaintiff's cane-piece beyond the canal and injured the canes there growing, and dug up and injured the soil of the road; and in any case the acts mentioned in this paragraph were wholly unnecessary for the assertion of the defendant's alleged right to use, or the user of the said road as a highway.

The plaintiff claims:—

1. Damages for the wrongs complained of.
2. An injunction restraining the defendant from any repetition of any of the acts complained of.
3. Such further relief as the nature of the case may require.

[Title.]

Statement of Defence.

1. The defendant says that the road was and is a public highway for horses and carriages; and a few days before the 5th March, 1876, the plaintiff wrongfully erected the gate across the road for the purpose of obstructing and preventing, and it did obstruct and prevent, the use of the road as a highway. And the defendant on the said 5th March, 1876, caused the said gate to be removed, in order to enable him lawfully to use the road by his horses and carriages as a highway.

2. The defendant denies the allegations of the fifth paragraph of the statement of claim, and says that neither he nor any of his workmen or servants did any act, or used any violence other than was necessary to enable the plaintiff lawfully to use the highway.

[Title.]

Reply.

The plaintiff joins issue upon the defendant's statement of defence.

No. 22.

TRINIDAD.

In the Supreme Court.

Between Peter Peebles

and

Paul Plainstanes

Plaintiff,

Defendant.

Partnership.
See Red-
gauntlet.
Letter 13.

Statement of Claim.

1. The plaintiff and defendant entered into partnership in the year as mercers and linen drapers and carried on a great line of business to mutual advantage under the firm of Peebles and Plainstanes. The partnership was dissolved by mutual consent in the year

2. Attempts were made to wind up the affairs of the partnership extrajudicially, and a long correspondence passed between the plaintiff and defendant having this object. These attempts eventually proved futile, and such affairs are still unsettled.

3. A balance of £3,600, less or more, is due from the defendant to the plaintiff in respect of the said partnership affairs.

The plaintiff claims as follows:—

That an account be taken of the dealings and transactions of the plaintiff and defendant as such partners as aforesaid, and that the defendant be ordered to pay to the plaintiff what shall appear to be due to him on taking such account, the plaintiff being ready and willing and hereby offering to pay to the defendant what, if anything, shall appear to be due from the plaintiff to the defendant.

Statement of Defence.

TRINIDAD.

In the Supreme Court.

Between Peter Peebles Plaintiff,
and
Paul Plainstanes Defendant.

1. The defendant admits the first paragraph of the plaintiff's statement of claim, and also admits that after the dissolution of the partnership mentioned in such first paragraph, a long correspondence passed between the plaintiff and defendant having for object the settlement extrajudicially of the respective rights and liabilities of the plaintiff and defendant, but save as aforesaid the plaintiff denies the matter alleged in such statement.

2. The effect of the before-mentioned correspondence is that the plaintiff and defendant mutually release one another from all claims and liabilities in respect of the said partnership; and the defendant insists that under the circumstances aforesaid the plaintiff is precluded from bringing this action, and that the same ought to be dismissed with costs.

3. If the accounts of the said partnership are taken a balance of £2,500, less or more, will appear to be due from the plaintiff to the defendant.

Statement of Reply.

TRINIDAD.

In the Supreme Court.

Between Peter Peebles Plaintiff,
and
Paul Plainstanes Defendant.

The plaintiff joins issue upon the defendant's statement of defence.

TRINIDAD.

Form of Demurrer.

In the Supreme Court.

A. B. v. C. D.

The defendant [plaintiff] demurs to the [plaintiff's statement of complaint or defendant's statement of defence, or of set-off, or of counter-claim], or to so much of the plaintiff's statement of complaint as claims or as alleges as a breach of contract the matters mentioned in paragraph 17, [or as the case may be], and says that the same is bad in law on the ground that [here state a ground of demurrer] and on other grounds, sufficient in law to sustain this demurrer.

Memorandum of Entry of Demurrer for Argument.

TRINIDAD.

In the Supreme Court.

A. B. v. C. D.

Enter for the argument the demurrer of
to

X. Y.,
Solicitor for the plaintiff [or &c.]

APPENDIX (D.)

FORMS OF JUDGMENT.

1. *Default of Appearance and Defence in Case of Liquidated Demand.*

TRINIDAD.

In the Supreme Court.

Between A. B. Plaintiff,
and
C. D. and E. F. Defendants.

30th November, 1876.

The defendants [or the defendant C. D.] not having appeared to the writ of summons herein [or not having delivered any statement of defence], it is this day adjudged that the plaintiff recover against the said defendants £, and costs, to be taxed.

2. *Judgment in default of Appearance in Action for Recovery of Land.*

[Title, &c.]

30th November, 1876.

No appearance having been entered to the writ of summons herein, it is this day adjudged that the plaintiff recover possession of the land in the said writ mentioned.

4. *Judgment at Trial by Judge without a Jury.*

Between A. B. day of 18
 and Plaintiff,
 C. D., E. F., and G. H. Defendants.

This action coming on for trial [the day of
 and] this day, before
 in the presence of counsel for the plaintiff and the defendants [*or, if some of the defendants do not appear*, for the plaintiff and the defendant C. D., no one appearing for the defendants E. F. and G. H., although they were duly served with notice of trial as by the affidavit of filed the day of appears] upon hearing the probate of the will of, the answers of the defendants C. D., E. F. and G. H. to interrogatories, the admission in writing, dated and signed by [Mr. the solicitor for] the plaintiff A. B. and by [Mr. the solicitor for] the defendant C. D., the affidavit of filed the day of, the affidavit of filed the day of, the evidence of taken on their oral examination at the trial, and an exhibit marked X., being an indenture dated, &c., and made between [*parties*], and what was alleged by counsel on both sides: This Court doth declare, &c.

And this Court doth order and adjudge, &c.

5. *Judgment after a Trial by a Jury.*

[Title, &c.]

15th November, 1876.

The action having on the 12th and 13th November, 1876, been tried at Port of Spain [*or San Fernando*] before his Honor Mr. Justice and a special jury, and the jury having found [*state findings as in Registrar's certificate*], and the said Mr. Justice having ordered that judgment be entered for the plaintiff for £ and costs of suit [*or as the case may be*]: Therefore it is adjudged that the plaintiff recover against the defendant £ and £ for his costs of suit [*or that the plaintiff recover nothing against the defendant, and that the defendant recover against the plaintiff £ for his costs of defence, or as the case may be.*]

6. *Judgment upon Motion for Judgment.*

[Title, &c.]

30th November, 1876.

This day before Mr. X. of counsel for the plaintiff
 [or as the case may be], moved on behalf of the said
 [state judgment moved for], and the said Mr. X. having been heard
 of counsel for the plaintiff and Mr. Y. of counsel for the
 Court adjudged

APPENDIX (E).

FORMS OF PRÆCIPUE.

1. *Fieri facias.*

TRINIDAD.

In the Supreme Court.
 Between A. B. Plaintiff,
 and
 C. D. and others Defendants.

Seal a writ of fieri facias directed to the marshal to levy against
 C. D., the sum of £ and interest thereon
 at the rate of £ per centum per annum from the
 day of [and £ costs] to

Judgment [or order] dated day of
 [Judge's certificate as to costs, dated day of]
 X. Y., solicitor for [party on whose
 behalf writ is to issue.]

2. *Elegit.*

TRINIDAD.

In the Supreme Court.
 Between A. B. Plaintiff.
 and
 C. D. and others Defendants.

Seal a writ of elegit directed to the Marshal, against
 of in the county of for not paying to A. B.
 the sum of £ together with interest thereon from
 the day of [and the sum of £
 for costs,] with interest thereon at the rate of £6 per centum per
 annum.

Judgment [or order] dated day of
 18
 [Judge's certificate as to costs, dated day of]
 18

X. Y.,
 Solicitor for

every

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3. *Venditioni Exponas.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. and others Defendants.

Seal a writ of venditioni exponas directed to the Marshal to sell
the goods and of C.D. taken under a writ of fieri
facias in this action tested day of

X.Y.,

Solicitor for

4. *Attachment of Debts and other Property.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. and others Defendants.

Seal a writ of attachment of debts and other property
belonging to the above-named [. . . .]

Name and address of }
garnishee. }Date of judgment or }
or order. }Judgment debt and }
costs. }X.Y.,
Solicitor for5. *Writ of Sequestration.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. and others Defendants.

Seal a writ of sequestration against C.D. for not
at the suit of A. directed to [names of Commissioners].
Order dated day of

6. *Writ of Possession.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. and others Defendants.

Seal a writ of possession directed to the Marshal to deliver
possession to A.B. of

Judgment dated day of

7. *Writ of Delivery.*

TRINIDAD.

In the Supreme Court.

Between A.B.

and

Plaintiff,

C.D. and others

Defendants.

Seal a writ of delivery directed to the Marshal to make delivery to A.B. of

8. *Writ of Attachment.*

TRINIDAD.

In the Supreme Court.

Between A.B.

and

Plaintiff,

C.D. and others

Defendants.

Seal in pursuance of order dated day of
an attachment directed to the Marshal against C.D. for not
delivering to A.B.

APPENDIX (F.)

FORMS OF WRITS.

1. *Writ of Fieri Facias.*

TRINIDAD.

In the Supreme Court.

Between A.B.

and

Plaintiff,

C.D. and others

Defendants.

Victoria, by the grace of God of the United Kingdom of Great
Britain and Ireland Queen, Defender of the Faith, Empress
of India.

To the Marshal of our said Island of Trinidad, greeting.

We command you that of the goods and chattels of C.D. you
cause to be made the sum of £ and also interest thereon
at the rate of £ per centum per annum from the
day of * which said sum of money and interest were
lately before us in our Supreme Court in a certain action [or
certain actions, as the case may be] wherein A.B. is plaintiff and
C.D. and others are defendants [or in a certain matter there
depending intitled "In the matter of E.F." as the case may be]
by a Judgment [or order, as the case may be] of our said Court,
[bearing date the day of adjudged [or ordered,
as the case may be] to be paid by the said C.D. to A.B., together
with certain costs in the said judgment [or order as the case may be]

* Day of the judgment or order, or day on which money directed to be paid, or
day from which interest is directed by the order to run, as the case may be.

4. *Writ of Attachment of Debts and other Property.*

TRINIDAD.

In the Supreme Court.
Between A.B. Plaintiff,

and

C.D. and others Defendants.

Victoria, by the grace of God, of the United Kingdom of
Great Britain and Ireland Queen, Defender of the Faith,
Empress of India.

To E.F. of

Garnishee.

We command you to appear before our Supreme Court at
on the day of
at o'clock in the forenoon, to be examined touching the pro-
perty of the above named C.D., which may have been attached in
your hands by virtue of this writ.

And we do further command you to take notice that from the
time of the service upon you of this writ of attachment, all
property whatsoever other than lands and tenements, or any
interest therein, to which the said C.D. is beneficially entitled,
whether solely or jointly with others, and which at the time of
the service of this writ, or at any time before the same is dis-
solved, is in your custody or under your control, and all debts
due or accruing due by you to the said C.D. at or during such
time as aforesaid, are (subject to Crown debts and to any *bona
fide* prior title thereto, or lien or charge thereon), respectively
attached in your hands as garnishee, to satisfy the claim of the
said A.B.; and that if you, without leave or order of our Court,
at any time after the service of this writ, and before the
attachment is dissolved, knowingly and wilfully part with the
custody or control of any property attached under this writ, or
remove the same out of the Colony, or sell or dispose of the same,
or pay over any debt due by you to the said C.D., except only to
or to the use of the above named A.B., you will be liable to attach-
ment, and to pay such damages to the said A.B. as our Court may
award.

Witness,

Chief Justice of our said Island this

day of

A D., 187 .

5. *Writ of Possession.*

TRINIDAD.

In the Supreme Court,
Between A.B. Plaintiff,

and

C.D. and others Defendants.

Victoria, &c., to the Marshal of our said Island of Trinidad,
greeting:

Whereas lately in our Supreme Court, by a judgment of the

same Court [A.B. recovered] or [E.F. was ordered to deliver to A.B.] possession of all that with the appurtenances: Therefore, we command you that without delay you cause the said A.B. to have possession of the said land and premises with the appurtenances. And in what manner you have executed this our writ make appear to the Judges of our Supreme Court immediately after the execution hereof, and have you there then this writ.

Witness, &c.

6. *Writ of Delivery.*

TRINIDAD.

In the Supreme Court.

Between A.B.

and

Plaintiff,

C.D. and others

Defendants.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India.

To the Marshal of our said Island of Trinidad, greeting:

We command you that without delay you cause the following chattels, that is to say [*here enumerate the chattels recovered by the judgment for the return of which execution has been ordered to issue*] to be returned to A.B., which the said A.B. lately in our Supreme Court recovered against C.D. [*or C.D. was ordered to deliver to the said A.B.*] in an action in our said Court.* And we further command you, that if the said chattels cannot be found, you distrain the said C.D. by all his lands and chattels, so that neither the said C.D. nor any one for him do lay hands on the same until the said C.D. render to the said A.B. the said chattels; and in what manner you shall have executed this our writ make appear to the Judges of our Supreme Court immediately after the execution hereof, and have you there then this writ.

Witness, &c.

The like, but instead of a distress until the chattel is returned, commanding the Marshal to levy on defendant's goods the assessed value of it.

[*Proceed as in the preceding form until the*. and then thus:*] And we further command you, that if the said chattels cannot be found, of the goods and chattels of the said C.D., you cause to be made £ [the assessed value of the chattels], and in what manner you shall have executed this our writ make appear to the Judges of our Supreme Court immediately after the execution hereof, and have you there then this writ.

Witness, &c.

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7. *Writ of Attachment against the Person.*

TRINIDAD.

In the Supreme Court.
Between A.B. Plaintiff,
and
C.D. and others Defendants.

Victoria, &c.

To the Marshal of our said Island of Trinidad, greeting :

We command you to attach C.D. so as to have him before us in our Supreme Court there to answer to us, as well touching a contempt which he, it is alleged, hath committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in this behalf, and hereof fail not, and bring this writ with you.

Witness, &c.

8. *Writ of Sequestration.*

TRINIDAD.

In the Supreme Court.
Between A.B. Plaintiff,
and
C.D. and others Defendants.

Victoria, &c.

To [*names of not less than three Commissioners*] greeting :

Whereas lately in our Supreme Court in a certain action there depending, wherein A.B. is plaintiff and C.D. and others are defendants [*or, in a certain matter then depending, intituled "In the matter of E.F.," as the case may be*] by a judgment [*or order as the case may be*] of our said Court made in the said action [*or matter*], and bearing date the day of 187 it was ordered that the said C.D. should pay into Court to the credit of the said action the sum of £ [*or as the case may be*]. Know ye, therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give to you, or any two of you, full power and authority to enter upon all the messuages, lands, tenements and real estate whatsoever of the said C. D., and to collect, receive, and sequester into your hands not only all the rents and profits of his said messuages, lands, tenements and real estate, but also all his goods, chattels and personal estates whatsoever; and therefore we command you, or any two of you, that you do, at certain proper and convenient days and hours, go to and enter upon all the messuages, lands, tenements, and real estates of the said C.D., and that you do collect, take, and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under

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sequestration in your hands until the said C.D. shall [pay into Court to the credit of the said action the sum of £ ^{or} *as the case may be*] clear his contempt, and our said Court make other order to the contrary.

Witness, &c.

9. *Writ of Attachment against Property before Judgment.*

TRINIDAD.

In the Supreme Court.

Between A.B. Plaintiff,

and

C.D. Defendant.

Victoria, &c.

To the Marshal of our said Island of Trinidad, greeting :

Whereas it has been shown to the satisfaction of the Court that C. D., the defendant in the above suit, with intent to obstruct or delay the execution of any judgment which may be passed against him, is about to remove out of the Colony his goods and chattels, or some parts thereof, you are hereby commanded to seize, attach, and take into your hands the goods, chattels, and effects of the said defendant [*or certain goods and chattels specified*], and to hold the same until the further order of the said Court; and you are also commanded forthwith, after the execution of this writ, to return the same into the said Court, with the place, time, and particulars of execution endorsed thereon.

Witness, &c.

R U L E S.

THE HONOURABLE SIR JOSEPH NEEDHAM, KNIGHT, Chief Justice of the Island of Trinidad, with the concurrence of HIS HONOR MR. JUSTICE FITZGERALD AND HIS HONOR MR. JUSTICE COURT, doth hereby, in exercise of the power vested in him by the forty-first Section of the Judicature Ordinance, 1879, and of all other powers enabling him in this behalf, make the Rules following, that is to say—

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PRELIMINARY ORDER.

1. These Rules shall not come into operation until the day on which the Judicature Ordinance, 1879, comes into operation.

2. From and after the day on which the Judicature Ordinance, 1879, comes into operation, all the Rules contained in the two schedules to the Ordinance No. 4 of 1848, intituled "An Ordinance to provide for the better administration of justice in civil cases, and to extend and define the jurisdiction and powers of the Supreme Civil Court," and the forms and table of fees appended to such schedules are hereby annulled.

3. These rules may be cited as "The Supreme Court Rules, March 1880."

The rules for the time being in force by virtue of the schedule to the Judicature Ordinance, 1879, or any duly authorised alteration therein, or addition thereto, may be referred to as "The Statutory Rules," and the Orders into which the same are divided may be referred to as "The Statutory Orders."

The FOLLOWING RULES shall be added respectively to the statutory orders hereinafter specified (that is to say)—

ORDER IX.

12. It shall not be necessary to the regular service of any summons, or other process, rule or order, that the original writ, rule or order should be shown, unless sight thereof be demanded; except in cases of attachment or commitment.

13. Every writ of summons issued against a corporation aggregate may be served on the Town Clerk, Clerk or Secretary, or any resident chief officer of such corporation.

14. Service of any writ, pleading, notice, judgment or other proceeding, shall not be made except between the hours of eight o'clock in the morning and six in the afternoon.

15. The Marshal shall serve every writ of summons and make his return of service under his hand, and deliver the same into the office of the registrar within the periods following (that is to say): within three days after the receipt by him of the writ in those actions wherein all the defendants reside in Port-of-Spain, or within ten miles from the Court House; within fifteen days in those actions wherein any defendant resides at any distance greater than ten miles, and not more than thirty miles from the Court House; and within twenty-one days in all other cases.

ORDER XII.

18. All parties to actions may appear in person or by solicitor; and no power of attorney shall be necessary to bring or defend

any action, but the Court or any Judge thereof, on its being made to appear that any action is brought, or any appearance entered, without sufficient authority, may make such order for the setting aside such action or appearance, and for the payment of costs by the solicitor bringing such action or entering such appearance, as might be made in the like case by the High Court of Justice in England.

19. A party appearing at any stage of an action by a solicitor shall not be at liberty to change his solicitor, nor shall the solicitor be discharged without an order of a Judge for that purpose; and until such order is served upon any other party the solicitor by whom the first-mentioned party appeared shall be considered his solicitor as between him and such other party for all the purposes of the action.

ORDER XVI.

32. Where any person required to be served with notice of a decree or order pursuant to the 8th sub-rule of the 14th rule of this order is an infant or a person of unsound mind not so found by inquisition, the notice shall be served upon such person or persons and in such manner as a Judge in Chambers may direct.

33. For the purpose of procuring the direction of the Judge as to the manner of serving notice of a decree or order pursuant to the last preceding rule, the plaintiff or party having the conduct of the proceedings is to make an application *ex parte*, and thereupon to show by affidavit as far as he is able:—

1. With respect to infants

The ages of the infants.

Whether they have any parents or testamentary guardians, or guardians appointed by the Court.

Where and under whose care the infants are residing, at whose expense they are maintained, and in case they have no father or guardian, who are their nearest relations.

And that the parents, guardians, relations or persons, on whom it is proposed to serve the notice, have no interest in the matters in question, or if they have, the nature of such interest, and that it is not adverse to the interests of the infants.

2. With respect to persons of unsound mind not so found by inquisition

Where and under whose care such persons are residing, and at whose expense they are maintained

Who are their nearest relations, and that such relations, or the persons upon whom it is proposed to serve the notice, have no interest in the matters in question, or if they have the nature of such interest, and that it is not adverse to the interest of the persons of unsound mind.

34. Where an infant or person of unsound mind not so found by inquisition is served with notice of any judgment, a guardian *ad litem* may be appointed in like manner as guardians *ad litem* are appointed for defendants.

35. At any time during any proceedings at Chambers under any judgment or order, the Judge may, if he thinks fit, require a guardian *ad litem* to be appointed for any infant, or person of unsound mind not so found by inquisition, who has been served with notice of such judgment or order.

36. A memorandum of the service upon any person of notice of the judgment in any suit shall be entered in the registrar's office upon due proof by affidavit of such service.

37. Notice of a judgment or order served pursuant to the 8th sub-rule of Rule 14 shall be entitled in the action, and there shall be endorsed thereon a memorandum in the form or to the effect following, that is to say :—

“ Take notice that from the time of the service of this notice, you [or, as the case may be, the infant or person of unsound mind] will be bound by the proceedings in the above action in the same manner as if you [or, the said infant, or person of unsound mind] had been originally made a party to the action, and that you [or, the said infant, or person of unsound mind] may, by an order of course, have liberty to attend the proceedings under the within mentioned judgment [or, order] and that you [or, the said infant, or person of unsound mind] may, within one month after the service of this notice, apply to the Court to add to the judgment [or, order].

ORDER XIX.

29. In every case in which the defendant pleads the General Issue, intending to give the special matter in evidence by virtue of any Ordinance or other law, he shall insert in the margin of the plea the words “ By Statute ” and a reference to such Ordinance or other law ; otherwise such pleading shall be taken not to have been pleaded by virtue of any Ordinance or other law.

30. The name and address of the party or solicitor by whom copies of pleadings or other documents are made shall be endorsed thereon ; and such party or solicitor shall be answerable for every such copy being a true copy of the original, or of an office copy of the original, as the case may be.

ORDER XXXI.

24. Where there is just reason to believe that any party for whose examination interrogatories have been delivered means to abscond before answering such interrogatories, the Court may, on

the *ex parte* application of the party by whom the interrogatories were delivered, order an attachment to issue against him; and such attachment shall be made returnable at such time as the Court directs.

ORDER XXXVI.

24. When issue of fact has been joined in any action, or interlocutory judgment in an action where damages are claimed has passed for the plaintiff, the registrar shall on the application of the plaintiff, unless the Court otherwise directs, enter the cause for trial.

25. All actions shall be brought on in the order in which the same are entered for trial unless the Court otherwise directs.

26. When any special verdict is found, one counsel for the plaintiff and another for the defendant shall draw up the notes of the special verdict and sign the same; and where the counsel differ, or other occasion requires, the Judge presiding at the trial shall settle the same according to the facts found by the Jury.

ORDER XXXVII.

5. Subpoenas to witnesses shall be in the form in the Appendix No. 1, with such variations as circumstances require.

ORDER XXXVIII.

7. Affidavits shall be expressed in the first person of the deponent, and any solicitor, party or person, filing an affidavit not so expressed shall not be allowed the costs of preparing or filing such affidavit.

8. The addition and usual place of abode of every person making any affidavit shall be inserted therein, and the particular place where the affidavit is sworn shall be stated in the jurat.

9. The registrar shall refuse to file any affidavit in which there is any knife erasure, or which is blotted so as to obliterate any word, or which is improperly written, or so altered as to cause any material disfigurement, or any affidavit in which there is any interlineation of any word or words, unless the person before whom the same is sworn duly authenticate such interlineation with his initials in such manner as to show that the interlineation of such word or words was made before the affidavit was sworn, and so as to mark the extent of such interlineation.

10. Every alteration in an account verified by affidavit is to be marked with the initials of the Judge, commissioner or officer before whom the affidavit is sworn, and such alterations are not to be made by erasures with the knife or other instrument.

11. The party intending to use any affidavit in any proceeding in Chambers shall give notice to the other parties concerned of his intention in that behalf.

ORDER XLI.

11. The registrar shall prepare a draft entry of every judgment or order within seven days after the requisite documents are left, and he shall deliver to any of the parties to the action a copy of such draft entry on payment of the proper charge for the same.

12. Within seven days next after any judgment or order is pronounced, or within such extended time as a Judge in Chambers may allow, any of the parties to the action may take out and serve a summons to settle the draft entry of such judgment or order, which summons shall be returnable before the Judge, or the junior of the judges by whom the judgment or order was pronounced, unless the Court otherwise directs. Upon the return day of the summons or some adjournment thereof the Judge shall settle the draft entry, and the registrar shall enter the judgment or order accordingly.

13. When the time, within which a summons to settle the draft entry of any judgment or order may be taken out, has expired, the registrar shall, if no such summons is taken out, enter the judgment or order according to the draft entry thereof prepared by him.

14. The registrar shall note in the margin of the entry of every judgment or order and authenticate by his signature the date when the same was actually entered by him, and, unless the Court otherwise orders, no writ of execution to enforce the judgment or order shall issue till after the expiration of seven days from such date. And in all cases in which any party has the right to appeal from any judgment or order to Her Majesty in Her Privy Council, such party shall be allowed the term of seven days after notice in writing of the actual entry of such judgment or order has been served on him or his solicitor for the purpose of filing his petition of appeal, and the time allowed to him for perfecting his security shall be taken to commence on the day of such service, and not before.

15. All orders, whether made in Court or in Chambers, shall be entered in the same manner as judgments.

16. No order made on a petition, and no order to make a submission to arbitration or an award or order of the Court, and no judgment or order wherein any written admissions of evidence are entered as read, shall be entered until the original petition, submission to arbitration, award, or written admissions of evidence have been filed in the registrar's office.

17. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a judge upon motion without an appeal.

ORDER XLII.

32. Every person to whom in any cause or matter any money has been ordered to be paid shall, after the lapse of seven days from the time when the judgment or order for payment was actually entered, be entitled to sue out a writ or writs of *fiery facias*, or a writ or writs of extent, which writs shall be executed by the marshal, unless the Court or a Judge sooner directs.

33. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered, shall state the time or the time after service of the judgment or order within which the act is to be done; and upon the copy of the judgment or order served upon the person required to obey the same, there shall be endorsed a memorandum in the words, or to the effect following, viz.:—

“If you the within named A. B. neglect to obey this judgment [or order] by the time therein limited you will be liable to have your property sequestered for the purpose of compelling you to obey the same judgment [or order] and you may also be liable to be arrested and committed to prison.”

34. Where any person who has obtained any judgment or order upon condition does not perform or comply with such condition, he shall be considered to have waived or abandoned such judgment or order, so far as the same is beneficial to himself; and any other person interested in the matter may, on breach or non-performance of the condition, take either such proceedings as the judgment or order may in such case warrant, or such proceedings as might have been taken if no such judgment or order had been made, unless the Court otherwise directs.

ORDER XLIII.

3. If it appears upon the return of any writ that the marshal has by virtue of such writ seized, but not sold, any goods of a person ordered to pay any money, the person to whom such money is payable shall immediately after such writ with such return is filed be at liberty to sue out a writ of *venditioni exponas*.

4. On every writ of *fiery facias* or of extent there shall be endorsed the calling and place of residence of the party against whom such writ is issued, and also the name and place of business of the solicitor at whose instance the same is issued, and every such writ shall be also indorsed with the sum to be levied.

ORDER XLV.

21. Where any funds, shares, securities or moneys are standing in trust in or to the general credit of any cause or matter, or to

the account of any class of persons, and an order is made to prevent the transfer or payment of such funds, shares, securities or moneys, or any part thereof, without notice to the assignee of any person entitled in expectancy or otherwise to any share or portion of such funds, shares, securities or moneys, the person by whom any such order is obtained, or the shares of such funds, shares, securities or moneys affected by such order, shall be liable at the discretion of the Court or a Judge at Chambers, as the case may be, to pay any costs, charges and expenses which, by reason of any such order having been obtained, are occasioned to any party to the cause or matter, or any person interested in any such funds, shares, securities or moneys.

22. Any person presenting a petition or taking out a summons for any such order as aforesaid shall not be required to serve such petition or summons upon the parties to the cause, or upon the persons interested in such parts of the funds, shares, securities or moneys as are not sought to be affected by any such order.

ORDER LII.

12. All property sold by the registrar under any judgment or order of the Court shall be sold on such terms and conditions, if any, as the Court may order; and where any live or dead stock is sold with any plantation or lands, the description and numbers of such stock shall be specified in the particulars of sale, and the bidder, on his being confirmed as purchaser, and paying the purchase money, or giving such security as hereinafter directed for such part thereof as is not paid in cash, shall be entitled to be let into possession.

13. Any part of the purchase money which is allowed to remain charged on the property sold, shall be further secured by a judgment to be entered up for the amount thereof against the purchaser at his own costs in an action at the suit of the registrar, and to be duly registered. And in case of any default in the payment of such purchase money, execution may issue on such judgment without any *scire facias*, and the Court also may, if it see fit, on the motion of any person interested in the purchase money remaining unpaid, of which motion no notice shall be required to be given, order the property to be again put up for sale by the registrar on the account and at the risk of the purchaser, unless the purchase money in default and interest for the same at the rate of £8 per centum per annum, together with the costs of such motion, be paid on or before some day to be appointed for that purpose by the Court by its order on such motion.

14. In pressing cases the Court may allow a motion for an injunction to be heard immediately without any notice to the other side; and upon the hearing may, in its discretion, order the injunction or an interim order to issue forthwith, or direct the

application to stand over, until the party applying has given such notice and copies to the other side as to the Court seem reasonable.

15. Where on an *ex parte* application an injunction is ordered to issue, the party enjoined may apply to the Court by motion to dissolve the injunction.

16. Injunctions and notices of injunction must be served upon the persons to be enjoined personally; but if it is made to appear to the satisfaction of the Court, or any Judge thereof, that any person wilfully and fraudulently evades the service of any injunction or notice, it shall be lawful for the Court or Judge to order such injunction or notice to be served in such other manner as to the Court or Judge seems convenient and proper, and such substituted service shall be deemed valid and binding.

ORDER LJIII.

The 15th rule is hereby annulled, and in lieu thereof the following shall be substituted:—

15. Every appeal to the Court from any decision at Chambers shall be by motion. Notice thereof must be given within eight days after the decision appealed against, and the motion must be made on the first day on which the Court sits to hear appeals after the expiration of four clear days from the time when such notice was given.

And the following rules shall be added:—

17. Unless the Court otherwise orders, every rule or order to show cause shall be served four clear days at least before the day appointed for showing cause.

18. Summonses shall be prepared by the parties and sealed by the registrar, and a copy of every summons shall be filed in the registrar's office.

19. A summons for the purpose of proceedings at Chambers may be in a form similar to the form set forth in the Appendix No. 2, with such variations as the circumstances of the case may require.

20. Upon application for the appointment of guardians of infants and allowance for maintenance the evidence is to show—

1. The ages of the infants.
2. The nature and amount of the infants' fortunes and incomes.
3. What relations the infants have.

21. Upon applications to obtain the sanction of the Court to infants making settlements on marriage under the Ordinance 11 of 1865 evidence is to be produced to show—

1. The age of the infant.
2. Whether the infant has any parents or guardians.
3. With whom or under whose care the infant is living, and if the infant has no parents or guardians, what near relations the infant has.

4. The rank and position in life of the infant and parents.
5. What the infant's property and fortune consist of.
6. The age, rank and position in life of the person to whom the infant is about to be married.
7. What property, fortune and income such person has.
8. The fitness of the proposed trustees and their consent to act.

The proposals for the settlement of the property of the infant, and of the person to whom such infant is proposed to be married, are to be submitted to the Court or Judge.

ORDER LV.

5. In all cases of taxation of costs it shall be sufficient to give twenty-four hours' notice thereof, and such notice shall be served upon the solicitor of the party, if he appears by a solicitor. It shall not be necessary to give notice of taxation to any defendant who has not appeared.

6. No party shall be allowed to appeal against any taxation of costs, unless he attended such taxation, and took the objection which is the ground or subject of his appeal.

7. The registrar, marshal and solicitors shall be entitled respectively to demand, charge or be allowed the fees specified in the Table of Fees in the Appendix No. 7.

ORDER LXIV.

The 3rd Rule is hereby annulled, and in lieu thereof the following shall be substituted :—

3. All actions under the summary jurisdiction shall be commenced by a writ in the form in the Appendix No. 3, with such variations as circumstances may require. It shall specify the day of hearing and have endorsed thereon full particulars of the plaintiff's claim.

And the following Orders shall be added to the existing Statutory Orders :—

ORDER LXVII.—*Arrest in Meditazione Fugæ.*

1. Where it appears to a Judge in Chambers that any party to an action has against any other party to such action a reasonable and probable claim, recoverable in the action, for a sum certain, or for an amount exceeding a sum certain, and that such other party is about to leave the colony without satisfying such claim and without leaving sufficient property in the colony whereby to satisfy such claim and the costs, charges and expenses of recovering it, the Judge may make order that the body of the party liable to the claim be arrested by the marshal pending the action, and thereupon a writ shall issue to the marshal commanding him to

take such last-mentioned party and him safely to keep until he has given security according to this order to appear and abide by any judgment in respect of the aforesaid claim.

The writ may be in the form in the Appendix No. 4.

It shall be endorsed with a sum certain, not exceeding the amount of the claim and the costs of the writ and the application for the same. The party arrested shall be committed to the Royal Gaol, and subject to any order of the Court there detained until he gives security as aforesaid, or until judgment in respect of the said claim is given.

2. Such security shall be given by putting in and perfecting bail in the action, which shall be given by the bond of some sufficient householder in double the amount endorsed on the writ, or by depositing and paying into Court such amount together with the additional sum of twenty pounds; and in case the party making the claim obtain judgment or an order in his favour, he shall be entitled by order of the Court upon motion made for that purpose to receive the money deposited and paid into Court or so much thereof as will be sufficient to satisfy the sum awarded by the judgment or order and the costs of the application; and if the claim be disallowed or abandoned, or if the sum deposited and paid into Court be more than sufficient to satisfy the claim, the money so deposited and paid into Court, or so much thereof as remains shall, by order of the Court upon motion to be made for that purpose, be repaid to the party by whom it was paid in.

3. Where a party has made his election to make such deposit and payment as aforesaid, the Court may at any time while the claim is pending make an order permitting him, on putting in and perfecting bail and paying such costs as the Court directs, to receive out of Court the money deposited and paid in by him.

4. Where a party has put in and perfected bail pending an action, the Court may if it thinks fit permit him to deposit and pay into Court the sum which would have been deposited and paid in if he had originally elected so to do, together with such further sum to answer the costs as the Court may direct, the whole to abide the event of the action and be disposed of in manner aforesaid, and thereupon the Court may order any bail bond given by or for him to be delivered up to be cancelled.

5. Where any person has been arrested pending an action, the Court or a Judge may at any time, if under the circumstances of the case justice seems so to require, order him to be discharged from custody or the whole or any part of any money deposited in Court by him to be returned to him, or any bail bond given by or for him to be delivered up to be cancelled.

6. If at any time after a party has been arrested pending an action it appears to the Court or a Judge that such arrest was improperly obtained, the Court or a Judge may award compensation to him and may direct the amount thereof to be ascertained by an inquiry before a Judge with or without a jury.

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An award under this rule shall bar any action grounded on the same cause.

7. Whenever any party is arrested pending an action and the party causing the arrest does not recover the whole amount in respect of which the arrest was made, the party causing the arrest shall not recover any costs, and the party arrested shall be entitled to his costs, unless the Judge before whom the claim is tried certifies under his hand that there was reasonable and probable cause for the arrest in respect of the amount aforesaid; and whenever a party arrested is entitled to his costs as aforesaid such costs shall be taxed by a Judge in Chambers, and the party causing the arrest shall be entitled to have execution only for the residue of the sum recovered by him after deducting the costs so taxed.

ORDER LXVIII.—*Petitions.*

1. All petitions shall be addressed "To the Honorable the Chief Justice and their Honors the Puisne Judges of the said Court."

2. Every petition shall be presented by being left with the registrar. The party presenting the petition shall at the same time hand to the registrar a copy to be sealed with the Seal of the Court. Service of the petition may be effected by serving the copy so sealed in the manner in which writs of summons may be served.

3. At the foot of every petition (not being a petition of course) and of every copy thereof a statement shall be made of the persons, if any, intended to be served therewith; and if no person is intended to be served with such petition, a statement to that effect shall be made at the foot of the petition and of every copy thereof.

4. Every petition shall be indorsed with the name, address and, if necessary, address for service, of the petitioner's solicitor or of the petitioner, if he sues in person, in the same manner as writs of summons are required to be indorsed.

5. Unless the Court gives special leave to the contrary, there must be at least two clear days between the service of a petition and the day appointed for hearing the petition.

6. In the case of petitions under Ordinances authorising the sale of property for public purposes, where the purchase-money is directed by any such Ordinances to be paid into Court, the petitioners claiming to be entitled to the moneys so paid in must make an affidavit, not only verifying their title, but also stating that they are not aware of any right in any other person, or of any claim made by any other person, to the sum of £ , in the said petition mentioned, or to any part thereof; or if the petitioners are aware of any such right or claim, they must in such affidavit state or refer to and except the same.

ORDER LXIX.—*Proceedings under Judgment.*

1. In this Order "Judgment" shall include an order.
2. In all cases of proceedings in Chambers under any judgment, the party entitled to prosecute the same shall take out and serve a summons to proceed within seven days after the judgment is actually entered; and in default thereof, any other party to the cause or matter shall be at liberty to take out and serve such summons, and such last-mentioned party shall have the prosecution of the judgment, unless the Judge otherwise directs.
3. Upon the return of such summons the Judge, if satisfied by proper evidence that all necessary parties have been served with notice of judgment, shall thereupon give directions as to the manner in which each of the accounts and inquiries is to be prosecuted, the evidence to be adduced in support thereof, the parties who are to attend on the several accounts and inquiries, and the time within which each proceeding is to be taken; and a day or days may be appointed for the further attendance of the parties, and all such directions may afterwards be varied or added to as may be found necessary.
4. Where any of the parties summoned to attend the Judge in Chambers fail so to attend, whether upon the return of the summons or at any time appointed for the consideration or further consideration of the matter, the Judge may proceed *ex parte* if, considering the nature of the case, he thinks it expedient so to do.
5. Where the Judge has proceeded *ex parte*, such proceeding shall not in any manner be reconsidered in the Judge's Chambers, unless the Judge, upon a special application made to him for that purpose by a party who was absent, is satisfied that such party was not guilty of wilful delay or negligence. And in such case, the costs occasioned by his non-attendance shall be in the discretion of the Judge, who may fix the same at the time and direct them to be paid by the party or his solicitor before he is permitted to have such proceeding reconsidered, or make such other order as to such costs as to such Judge may seem meet.
6. Where, upon the hearing of the summons to proceed, it appears to the Judge that, by reason of absence or for any other sufficient cause, the service of notice of the judgment upon any party cannot be made or ought to be dispensed with, the Judge may, if he thinks fit, wholly dispense with such service, or may, at his discretion, order any substituted service, or notice by advertisement or otherwise, in lieu of such service.
7. In all cases of proceedings in Chambers under any judgment or order, the Judge in Chambers may give directions as to the sale of property, as to advertising for creditors or claimants, as to the manner in which accounts are to be taken, as to the mode of proof of debts or claims and the circumstances under which such

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proof may be dispensed with, as to the costs to be allowed to creditors and claimants, as to allowances to receivers and the passing of receivers' accounts, as to the procedure in settling deeds, as to the cases in which a class of parties shall be required to appear by one solicitor or in which two or more parties shall be required to appear by distinct solicitors, and generally as to all matters as to which in the Chancery Division of the High Court of Justice in England a Judge in Chambers may give directions. In all the cases referred to in this rule, the practice of the High Court of Justice in England shall be followed, so far as the same is applicable.

8. The result of any proceedings in Chambers directed by any judgment or order shall be stated in the form of a certificate which shall be signed by the Judge and filed in the registrar's office.

9. In all matters referred to him, the Judge in Chambers shall be at liberty, upon the application of any party interested, to make a separate certificate or separate certificates from time to time, as to him seems expedient, the costs of such separate certificate or certificates to be in the discretion of the Court.

10. Where a judgment or order is made directing an account of debts, claims or liabilities, or an inquiry for heirs, next of kin or other unascertained persons, unless otherwise ordered, all persons who do not come in and prove their claims within the time which may be fixed for that purpose by advertisement shall be excluded from the benefit of the judgment or order.

11. All parties accounting before the Judge in Chambers shall bring in their accounts in the form of debtor and creditor; and any of the other parties who is not satisfied with the account so brought in shall be at liberty to examine the accounting party upon oath before the Judge in Chambers.

12. In taking any account directed by any judgment or order all just allowances shall be made without any direction for that purpose in such judgment or order.

13. Where a judgment or order is made directing an account of the debts of a deceased person, unless otherwise ordered, interest shall be computed on such debts, as to such of them as carry interest, after the rate they respectively carry, and as to all others, after the rate of six per cent. per annum, from the date of the decree or order.

14. A creditor, whose debt does not carry interest, who comes in and establishes the same before the Judge in Chambers, under a judgment or order of the Court or of the Judge in Chambers, shall be entitled to interest upon his debt, at the rate of six per cent. per annum from the date of the judgment or order, out of any assets which may remain after satisfying the costs of the suit, the debts established and the interest of such debts as by law carry interest.

15. Where a judgment or order is made directing an account of legacies, interest shall be computed on such legacies after the

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rate of six per cent. per annum, from the end of one year after the testator's death, unless otherwise ordered, or unless any other time of payment or rate of interest is directed by the will, and in that case according to the will.

ORDER LXX.—*Hearing on further Consideration.*

When any cause at the original or any subsequent hearing thereof, has been adjourned for further consideration, such cause may, after the expiration of eight days, and within fourteen days from the signing of the certificate of the Judge, be set down by the registrar in the cause book for further consideration, on the written request of the solicitor for the plaintiff or party having the conduct of the cause; and after the expiration of such fourteen days the cause may be set down by the registrar on the written request of the solicitor for the plaintiff or for any other party; and the request to set down the cause may be according to the form in the Appendix No. 5; but the cause, when so set down, shall not be put into the paper for further consideration until after the expiration of ten days from the day on which the same was so set down, and shall be marked in the Cause-book accordingly. And notice thereof shall be given to the other parties in the cause at least six days before the day for which the same may be so marked for further consideration; and such notice may be according to the form in the Appendix No. 6.

ORDER LXXI.—*Duties of Registrar.*

1. The registrar upon any writ being presented for sealing, shall ascertain whether such writ is correct in form, and whether the person presenting the same is, according to the course and practice of the Court entitled to sue out the same, and in case it appears that such writ is correct in form, and the person is entitled to sue out the same, such writ shall be forthwith sealed.

2. The registrar shall upon the request of any person and upon payment of the proper fee furnish office copies of any pleading, proceeding or document filed in his office in any action, and every such office copy shall be signed by the registrar.

3. The registrar shall keep a book, to be called the "Cash Deposit Book," in which he shall enter day by day all moneys paid into Court in any action, specifying, in distinct columns in the order following, the date of such payment, the title of the cause in which such payment is made, the name of the party paying, and the amount of such payment; and there shall be three additional columns, in which he shall, on the taking out of the moneys so paid in, insert the amount paid out, and the date of his paying out, and in the remaining column, he will require the party taking out the moneys to sign his name, in testimony

of the correctness of the several entries relating to such moneys. The Cash Deposit Book shall, every day, during office hours, remain exposed in the public office of the Registrar, and every person shall have a right to inspect the same without the payment of any fee.

4. The registrar shall keep a minute book, in which the registrar or his clerks will enter day by day a minute of all matters transacted, noting the following particulars,—the day of the month and year, the name and style of office of the Judge or Judges holding the Court, the respective numbers and titles of the several actions which are tried, the names of the jurors trying each action, the names of the Counsel and Solicitors for each party, the names of the witnesses examined, and as concisely as possible the nature of the documentary evidence put in by each party, the finding of the jury and the judgment or order of the Court, or such of these particulars as are applicable. The registrar will, without loss of time, verify all such entries, and when he has ascertained the same to be correct, will subscribe his name and title of office at the end of the minutes of each day's proceedings in the minute book.

ORDER LXXII.—*Solicitors.*

1. The solicitors for the several parties in all causes and matters shall attend in Court when such causes and matters are appointed to be heard and during the hearing thereof.

2. Where, upon the hearing of any cause or other matter, it appears that the same cannot conveniently proceed, by reason of the solicitor for any party having neglected to attend personally or by some proper person on his behalf, or having omitted to deliver any paper necessary for the use of the Court, and which according to its practice ought to have been delivered, such solicitor shall personally pay to all or any of the parties such costs as the Court thinks fit to award.

3. No agreement between any solicitors relating to any of their clients' causes shall be capable of being enforced unless and until such agreement, or some note or memorial thereof, be put into writing, and subscribed by the party who is to be bound thereby, or his solicitor.

ORDER LXXIII.—*Sittings of the Court.*

1. Sittings of the Appeal Court, under the Summary Convictions Appeal Ordinance, 1875, shall be held on the first and third Tuesday in every month. Sittings of the Full Court shall be held on the first and third Tuesday in every month except during the vacation. Any of the sittings aforesaid may be continued from day to day if necessary or convenient

2. Sittings of the Court for criminal trials shall be held at Port of Spain on the second Tuesday, and at San Fernando on the first Thursday, in each of the following months, February, April, June, October and December. Such sittings shall continue respectively from day to day until all matters ready for trial are disposed of: Provided that in the present year no such Criminal Siting shall be held in April.

3. Sittings of the Court in the Summary Jurisdiction shall be held at San Fernando on the first Thursday in every month and on other days, if necessary.

4. Subject to the sittings hereinbefore by this Order appointed the Court shall sit as well in the Summary as in the Ordinary Jurisdiction, daily or otherwise as occasion requires, except during the vacation, for the disposal of all actions and other matters capable of being disposed of by a single Judge with or without a Jury.

5. A Judge shall sit in Chambers every Thursday except during vacation, and also on other days as occasion requires.

6. If any of the days appointed for the sittings of the Appeal Court under the Summary Convictions Appeal Ordinance 1875, or of the full Court, is a public holiday, such sittings shall be held on the following Tuesday, and if any of the days hereinbefore appointed for sittings of the Court for Criminal Trials is a public holiday, such sittings shall be held on the next following working day.

7. In urgent cases any application may be made to, and any interim or interlocutory order may be made by a Judge, on any day except Sunday, whether the same be a public holiday or not.

8. The sittings appointed by this Order may from time to time be altered by rules made by the Chief Justice with the concurrence of a Puisne Judge, and such rules shall not require the approval of the Governor and Legislative Council: Provided that such rules shall not affect the period of the vacation, and shall be in accordance with the fourth section of the Summary Convictions Appeal Ordinance 1875.

JOS. NEEDHAM, *C.J.*
HORACE FITZGERALD, *J.*
HENRY COURT, *J.*

Dated the 16th day of March, 1880.

Approved by the Governor and the Legislative Council this nineteenth day of March, in the year of Our Lord one thousand eight hundred and eighty.

A. C. ROSS,
Clerk of the Council.

APPENDIX.

No. 1.—*Form of Subpœna to Witnesses.*

TRINIDAD.

In the Supreme Court.

Victoria, by the Grace of God, of the United Kingdom
of Great Britain and Ireland Queen, Defender of the
Faith, Empress of India.

To Greeting:

We command you (and every of you) that, laying all other
matters aside and notwithstanding any excuse you (and every of
you) personally be and appear before our said Supreme Court,
at the Court House, in the Town of Port-of-Spain, on
the day of and every day
thereafter until you be duly discharged, at o'clock in the
 noon of each day, then and there to testify the truth
according to your knowledge in a certain cause now depending in
our said Court, wherein plaintiff and
 defendant on the part of the (*In case*
of a Subpœna duces tecum add, and that you then and there bring
with you and produce)

Witness, the Honourable
of our said Court at Port-of-Spain, this
day of

Chief Justice

No. 2.—*Form of Summons.*

TRINIDAD.

In the Supreme Court.

In the Matter of John Thomas—an Infant,

or

Between Joseph Wilson - - - Plaintiff
and

William Jackson - - - Defendant.

Let all parties concerned attend at the Judges' Chambers, at
the Court House, Port-of-Spain, on the day of
 , at of the clock in the noon,
on the hearing of an application on the part of [*here state on*
whose behalf the application is made, and the precise object of the
application.]

Dated this day of 18

Chief Justice.

or

Judge of the Supreme Court.

This Summons was taken out by A. of Solicitor
for
To

Honour
day of
Dated, &c.

for the

C. D.,

Solicitor for

To Mr.
Solicitor for

No. 7.—*Table of Fees.*

FEES IN THE SUPREME COURT IN THE ORDINARY JURISDICTION
AND IN THE SUMMARY JURISDICTION IN CASES WHERE THE
CAUSE OF ACTION EXCEEDS £50 (AS FAR AS PRACTICABLE).

Court Fees to the Registrar.

	£	s.	d.
On sealing a writ of summons for commencement of an action	0	15	0
On sealing a concurrent, renewed or amended writ of summons for commencement of an action... ..	0	5	0
On entering an appearance for each person	0	2	0
On sealing a notice for service under Order XVI, Rule 15	0	2	6
On sealing a writ of mandamus or injunction	1	0	0
On sealing a writ of subpoena not exceeding three persons	0	5	0
On sealing every other writ	0	10	0
On sealing a commission to take oaths or affidavits	3	0	0
Every other commission... ..	1	0	0
On filing every petition to the Court	0	5	0
On filing every motion	0	2	0
On every rule or order in the course of any action	0	2	0
On filing every affidavit	0	1	0
On every summons before a Judge	0	5	0
On setting down any cause for assessment of damages or for hearing before the Court	1	1	0
On setting down every motion for hearing before the Court	0	5	0
On every order of adjudication of real property	0	10	0
On registrar signing every deed by order of the Court	1	1	0
On precept for striking a special jury	1	1	0
On filing every document or exhibit	0	2	0
For copies of documents not exceeding one folio	0	1	0
For documents exceeding one folio. For the first folio	0	1	0
For every subsequent folio or fraction of a folio	0	0	4

The folio to consist of 90 words, each figure to count as a word.

Counsel.

Fees to be allowed for appearances, Arguments, Attendances at trial and on references and for settling Claims, Counter-claims, Defences, Petitions and Special Motions and generally for all services rendered, as the taxing Judge shall deem fit and reasonable.

Whether two Counsel to be allowed in any action to be also in the discretion of the taxing Judge.

Solicitors.

	£	s.	d.
For every letter or notice of action	0	5	0
Receiving instructions to sue or defend any action ...	0	13	4
Writ of summons and copy to file and attending to issue	0	13	4
Special endorsements	0	5	0
Statement of claim	1	0	0
Or per folio	0	1	0
Instructions for brief (when brief necessary)	0	13	4
Drawing brief and fair copy per folio	0	1	0

And such further sum as the taxing Judge may deem fit and reasonable.

For every notice, rule, order or summons	0	2	6
For service of same	0	2	6
For every demand of particulars of demand or of set off	0	2	6
Drawing and fair copy of common affidavit	0	5	0
" " " " special per folio	0	1	6
" bill of costs, per folio	0	1	0
Attending Judge, computing and taxing 0 6 8 to	1	1	0
Attending trial or hearing before the Court 0 6 8 to	0	13	4
Attending at hearing of motion ... 0 6 8 to	0	13	4
Striking a special jury	0	13	4
Every common attendance	0	3	4
Every special attendance 0 6 8 to	0	13	4

The folio to consist of 90 words, each figure to count as a word.

For every other service according to the above scale as far as possible.

FEEs TO BE TAKEN IN THE SUPREME COURT (SUMMARY JURISDICTION) IN CASES WHERE THE CAUSE OF ACTION DOES NOT EXCEED £50.

Court Fees.

	£	s.	d.
On sealing the writ of summons	0	8	0
For every citation	0	0	6

Judge shall certify that it was a proper case for the attendance of counsel.

Marshal.

In all actions in the Ordinary Jurisdiction and in all actions in the Summary Jurisdiction where the cause of action or subject matter of suit exceeds £50 or in actions for the recovery of the possession of land where the annual rent or value of the land exceeds the sum of £5, the same fees as he has been heretofore entitled to in the Supreme Court.

In all other actions the same fees as he has heretofore been entitled to in the Complaint Court.

IN THE SUPREME COURT.
ADDITIONAL RULES TO THE JUDICATURE
ORDINANCE, 1879.

Rules 3 and 4 of Order LXXIII. as to the sittings of the Court are hereby annulled and the following Rules are made:—

3. Sittings of the Court in the Ordinary Jurisdiction shall be held as occasion may require and due notice of such sittings shall be given from time to time.

4. Sittings of the Court in the Summary Jurisdiction shall be held at Port-of-Spain on the first and third Fridays in every month except the third Friday in August and the first and third Fridays in September, and at San Fernando on the first Thursday in every month except the month of September.

Dated this 26th day of June, 1880.

JOS. NEEDHAM, *C.J.*
H. FITZGERALD, *J.*
HENRY COURT, *J.*

IN THE SUPREME COURT.
ADDITIONAL RULES TO THE JUDICATURE
ORDINANCE, 1879.

5. Any reference to a Judge in Chambers in any matter now pending, or which may be hereafter pending in the Supreme Court may be prosecuted in vacation on such days as the Judge before whom such reference may be pending may from time to time appoint.

6. Costs may be taxed by any Judge in Chambers during vacation.

JOSEPH NEEDHAM, *C.J.*
HENRY COURT, *J.*

26th June, 1881.