

a writ of summons with an affidavit of personal service, or a Judge's order for perfecting service as hereinbefore provided, or in the case of a service on a Corporation, and affidavit of service as authorized by this Act, at the expiration of the time allowed for appearance and on due entry of the cause, sign final judgment in the form No. 8 in Schedule A, for any sum not exceeding the sum indorsed on the writ, together with interest to the date of the judgment, and the costs to be taxed in the ordinary way; and the plaintiff may upon such judgment issue execution at the expiration of twenty days from the last day for appearance, and not before; but the Court or a Judge may after final judgment, let in the defendant to defend, upon an application supported by satisfactory affidavits, accounting for the non-appearance, and disclosing a defence upon the merits.

38. In case of non-appearance where the writ of summons is not indorsed in the special form hereinbefore provided, the plaintiff may, on filing the writ of summons with an affidavit of the personal service thereof, or a Judge's order for perfecting the service, or in case of service on a Corporation, on filing an affidavit of service in the manner authorized by this Act, and on due entry of the cause, file a declaration indorsed with a notice to plead in twenty days, and in default of appearance and plea within twenty days, may sign judgment by default.

39. In any action brought against two or more defendants when the writ of summons is indorsed in the special form hereinbefore provided in the seventh section, if one or more of such defendants only appear, and another or others of them do not appear, the plaintiff may sign judgment against such defendant or defendants only as have not appeared, and before declaration against the other defendant or defendants may issue execution upon such judgment, in which case he shall be taken to have abandoned his action against the defendant or defendants who shall have appeared; or the plaintiff may before such execution declare against such defendant or defendants as may have appeared, stating by way of suggestion the judgment against the other defendant or defendants who have not appeared; in which case the judgment so obtained against the defendant or defendants who have not appeared, shall operate and take effect in like manner as a judgment by default obtained before the commencement of this Act, against one or more of several defendants in an action of debt.

JOINDER OF CAUSES OF ACTION.

40. Causes of action of whatever kind, provided they be by and against the same parties and in the same right, may be joined in the same suit; but this shall not extend to replevin or ejectment, or to joining causes of action arising *ex contractu* with those arising *ex delicto*, unless by leave of the Court or a Judge; and where two or more of the causes of action so joined are local, and arise in different Counties, the venue may be laid in either of such Counties; but the Court or a Judge shall have power to prevent the trial of different causes of action together, if such trial would be inexpedient; and in such case the Court or Judge may order separate records to be made up, and separate trials to be had.

41. In any action brought by a man and his wife on any cause of action accruing personally to the wife, in respect of which she is necessarily joined as a co-plaintiff, the husband may add thereto claims in his own right, and separate actions

brought in respect of such claims may be consolidated if the Court or a Judge shall think fit; provided that in case of the death of either plaintiff, such suit shall abate so far only as relates to the causes of action (if any) which do not survive.

LANGUAGE AND FORM OF PLEADINGS IN GENERAL.

42. All statements which need not be proved, such as the statement of time, quantity, quality and value, where these are immaterial; the statement of losing and finding, and bailment in actions for goods or their value; the statement of acts of trespass having been committed with force and arms, and against the peace of our Lady the Queen; the statement of promises which need not be proved, as promises in *indebitatus* counts, and mutual promises to perform agreements, and all statements of a like kind, shall be omitted.

43. Every declaration or other pleading shall be entitled of the proper Court, and of the day of the month and year when the same is filed, and shall also be entered on the record made up for trial, and on the judgment roll, under the date of the day of the month and year when the same respectively took place, and without reference to any other time or date, unless specially ordered by the Court or a Judge.

44. If profert of any deed or other document mentioned or relied on in any pleading be made, it shall not entitle the opposite party to set out upon oyer such deed or other document.

45. A party pleading in answer to any pleading in which any document is mentioned or referred to, may set out the whole or any part thereof which is material, and the matter so set out shall be taken to be part of the pleading in which it is set out.

46. The plaintiff or defendant in any action may aver performance of conditions precedent generally, but the opposite party shall not deny such performance generally, and shall specify in his pleading the condition or conditions precedent, the performance of which he intends to contest.

47. The form of pleadings contained in Schedule B shall be sufficient, and those and the like forms may be used with such modifications as may be necessary to meet the facts of the case; but a departure from such forms shall not render the pleadings erroneous or irregular as long as the substance is expressed without prolixity.

TIME AND MANNER OF DECLARING.

48. A plaintiff shall be deemed out of Court unless he declares within one year after the writ of summons or capias is served or executed, but it shall be lawful for a defendant to sign judgment of *non pros* in case a declaration is not filed within three calendar months after service or arrest; the like demand of declaration having been made after the lapse of such three months, as by the present practice of the Court is required in cases where such demand is made.

49. Every declaration shall commence as follows, or to the like effect:—

Supreme Court.

The day of A. D. 187 .

(Venue.) A. B. by C. D. his attorney (or in person, as the case may be), sues C. D. for [here, state the cause of action]; and shall conclude as follows, or to the like effect:—and the plaintiff claims \$, (or if the action be brought to recover specific goods, the plaintiff claims a return of the said goods or their value, and \$ for their detention.)