

GENERAL RULES.—HILARY TERM 1875.

THE following Rules and Regulations shall hereafter be observed in proceedings in Equity:—

NOTICES OF MOTIONS.

That in all cases, where no other time is fixed by any Act of Assembly or Rule of this Court, every notice of motion, and every petition, notice of which is necessary, shall be served at least six clear days before the first day of the Sitting of the Court at which such motion or petition is to be heard.

EXCEPTIONS.

Exceptions to a defendant's answer, or to a plaintiff's answer to interrogatories filed by the defendant, may, when submitted to a Judge according to the directions of the Act 17 Victoria, Cap. 18, sub-chap. 2, section 10, be set down for argument on the order of the Judge—fourteen days notice of the time appointed for the argument to be given to the opposite party.

BILLS FOR FORECLOSURE.

In every bill filed for the foreclosure or redemption of a mortgage, the time or times appointed for the payment of the principal money and interest secured by the mortgage, shall be briefly stated.

BILLS OF COSTS.

Every bill of costs presented for taxation, shall shew whether the decree or order was made *pro confesso*, upon demurrer, on evidence, or otherwise; and shall also state the respective dates of filing the bill, answer, &c., and of the several motions, hearings, &c. in the cause. No charge shall be allowed for a copy of the bill of costs to file.

W. J. RITCHIE,
JOHN C. ALLEN,
J. W. WELDON,
CHARLES FISHER,
A. R. WETMORE.

The following Rules and Regulations, made pursuant to "The Common Law Procedure Act, 1873," shall be in force:—

SEVERAL COUNTS.

1. Except as hereinafter provided, several counts on the same cause of action shall not be allowed, and any count or counts used in violation of this rule may, on application of the defendant, within a reasonable time, be struck out or amended by the Court or a Judge, on such terms as to costs or otherwise, as such Court or Judge may think fit.

SEVERAL PLEAS.

2. Several pleas, replications, or subsequent pleadings, or several avowries or cognizances, founded on the same ground of answer or defence, shall not be allowed: Provided, that on an application to the Court or a Judge to strike out any count, or on an objection taken before a Judge on a summons for leave to plead several matters, to the allowance of several pleas, replications or subsequent pleadings, avowries or cognizances, on the ground of such counts or other pleadings being in violation of this rule, the Court or Judge may allow such counts on the same cause of action, or such pleas, replications, or subsequent pleadings, or such avowries or cognizances founded on the same ground of answer or defence, as may appear to such Court or Judge to be proper for determining the real question in controversy between the parties on its merits, subject to such terms as to costs and otherwise, as the Court or Judge may think fit.

SERVING DECLARATION.

3. When a defendant appears, a copy of the declaration, with a notice to plead in twenty days, shall be served on his attorney, or on the defendant if he appears in person; and on default of his pleading within twenty days after such service, the plaintiff may sign judgment by default,—a plea being first demanded after the said twenty days.

INTERLOCUTORY JUDGMENTS.

4. From and after the present Term, in every memorandum of Interlocutory Judgment, the date of the entry of the cause shall be stated in the margin, or at the foot of the memorandum.

AFFIDAVITS.

5. From and after the first day of April next, every affidavit to be used in any cause or civil proceeding, either on the Common Law or Equity side of the Supreme Court, shall be drawn up in the first person, and shall be divided into paragraphs; and every paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit, or part of an affidavit, substantially departing from this rule.

JUDGMENT ROLLS.

6. No entry shall be made on any judgment roll, of any warrants of attorney to sue or defend.

NISI PRIUS RECORDS.

7. No *placita*, *jurata*, or award of *venire* shall be entered on the Nisi Prius record.

All Rules of Court heretofore made, inconsistent with the present Rules, are hereby rescinded.

The following Forms of Proceedings shall be used in the cases to which they are applicable, with such variations as the nature of the action, the character of the parties, or the circumstances of the case may render necessary; but any variance therefrom, not being in matter of substance, shall not affect their validity or regularity.

No. 1.—Form of Judgment by Default.

IN THE SUPREME COURT.

The day of in the year of our Lord one thousand eight hundred and [date of the declaration].

(Venue.)—A. B. by C. D. his attorney (or, in person, as the case may be), sued E. F., who had been summoned to answer the said A. B. by virtue of a writ issued on the day of in the year of our Lord one thousand eight hundred and out of Her Majesty's Supreme Court at Fredericton; for &c. [copy the declaration to the end.] And the said E. F. has not appeared; wherefore the said A. B. ought to recover against him on occasion of the premises.* And the said A. B. prays that the amount to be recovered in this action may be ascertained and assessed by the Court; and thereupon it is proved, and appears to the Court that the said A. B. ought to recover against the said E. F. the sum of . Therefore it is considered that the said A. B. do recover against the said E. F. the said sum of so ascertained and assessed by the Court, and also for his costs of suit by the Court here adjudged to the said A. B., which, in the whole, amount to

If the damages have been assessed on a Writ of Inquiry, proceed as follows, after the asterisk in the above Form:—

But because it is unknown to the Court what damages the said A. B. has sustained by means of the premises, the Sheriff of the said County of is commanded that by the oaths of seven good and lawful men of his bailiwick he inquire thereof, and that he send the inquisition which he shall thereupon take, to our Supreme Court at Fredericton, on &c. [the return day of the writ of inquiry,] under his seal, and the seals of the said jurors. At which day, before our said Court comes the said A. B. by his said attorney, and the said Sheriff returns the inquisition taken before him in the said County, on the day of in the year, &c., by which it is found that the said A. B. has sustained damages by means of the premises, to the sum of . Therefore it is considered that the said A. B. do recover against the said E. F. the said sum of so found by the said inquisition, and also for his costs," &c. [as above].

If the judgment is on confession, proceed as follows after the declaration:—And the said E. F. in person, (or, by his attorney, as the case may be) comes and says that he cannot deny the action of the said A. B. in the declaration mentioned, and acknowledges that the said A. B. is entitled to recover against him the said E. F. the sum of . Therefore it is considered that the said A. B. do recover against the said E. F. the sum of so acknowledged; and also for his costs, &c. [as above].

No. 2.—Form of Judgment of Non Pros.

IN THE SUPREME COURT.

The day of in the year of our Lord one thousand eight hundred and [date of signing judgment].

(Venue.)—C. D. was served with a copy of a writ of summons, (or, arrested by virtue of a writ of capias, as the case may be,) issued out of our Supreme Court at Fredericton, on the day of in the year of our Lord, &c., in an action at the suit of A. B. [if the defendant was arrested, state:—"directed to the Sheriff of the County of ,"] and the said C. D. appeared to the said writ by E. F. his attorney, (or, in person, as the case may be,) according to the provisions of "The Common Law Procedure Act, 1873." And the said A. B. hath not declared against the said C. D. in the said action within the time prescribed by the said Act. Therefore it is considered that the said A. B.