Appearance.

10th. That where an Attorney appears (*r*) for the Defendant, a copy of the Declaration, with notice of the Rule to plead, shall be served on him, he paying for such copy at the rate of Six pence per sheet, and on default of pleading in twenty days, Judgment to be entered, and a Writ of Inquiry may be executed as aforesaid, a Plea being first demanded after the said twenty days. (*s*)

Service of Notices.

11th. That all notices to be served on Defendants, or the Attornies of either party, shall be deemed well served if left at the dwelling house, or last, or most usual place of his or their lodgings. (*t*)

(*r*) Notice of Special Bail, signed "Attorney for the Defendant," is a sufficient appearance, without adding express words of appearance; nor is it necessary that a warrant of Attorney, or memorandum of it, should be filed in the Clerk's office.—*Fleming* v. *Shaw*, Chip. MS. 48. In Stephen on Pl. 27, it is said that, in bailable actions, appearance may be considered as effected by giving Bail. And in non-bailable actions notice of appearance to the Plaintiff's Attorney does not seem to be necessary.—See 1 Arch. Pr. 335—1 Sell. Pr. 98.

(*s*) The Defendant has twenty days to plead, from the time the declaration is filed in the Clerk's office, and though a copy may have been served upon him before the declaration was filed, a demand of plea before twenty days from the time of filing have expired, is irregular. —*Passmore* v *Turner*, Chip. MS. 46. On the other hand, the Defendant has twenty days to plead from the time of service of a copy of the declaration; and a demand of plea cannot be made before the expiration of such twenty days, though the rule to plead entered at the time of filing the declaration may have sooner expired.—*Fawcett* v. *Nethery*, 2 *Kerr* 81. The day of serving a copy of declaration is to be computed one of the twenty days allowed for pleading; therefore where the copy was served on the 9th January, a demand of plea on the 29th was held regular.—*Clowes* v. *Scoullar*, Ibid 628. This case was decided upon the authority of *Rex* v. *Adderley*, Doug. 463, *Castle* v. *Burditt*, 3 T. R. 623 and *Glassington* v. *Rawlins*, 3 East 407, the two former of these are expressly over-ruled in *Young* v. *Higgon*, 6. M. & W. 49, and as *Glassington* v. *Rawlins* rests upon the authority of *Rex* v. *Adderley*, it follows that the doctrine there expressed cannot now be supported. The rule laid down for computing time in *Young* v. *Higgon* is, that where time *from* a particular period is allowed to a party to do an act, the first day is to be reckoned exclusively. Now it is to be remarked that there is a material difference between the language of the seventh and tenth rules Easter T. 25 Geo. 3, the former allowing twenty days to plead *from* the day of notice of filing the declaration; the latter authorising judgment to be entered on default of pleading *in* twenty days. It seems clear under the authority of *Young* v. *Higgon*, that in construing the seventh rule, the day of serving the notice should be excluded, but as different words are used in the tenth rule, it is but reasonable to conclude that it was intended to have, and is subject to a different interpretation, and that the day of serving the declaration is to be included in the computation. It is therefore submitted, that as the case of *Clowes* v. *Scoullar* came under the tenth rule, notwithstanding the cases cited in support of it have been over-ruled, the demand of plea was not too soon. As to the demand of plea where the respective Attornies reside in different counties, see post, Rule 1. Trinity T. 5 Vict. Where a Defendant has appeared and pleaded, it is usual to serve a copy of the plea on Plaintiff's Attorney, but before the rule of Hilary T. 6 Vict. this was not necessary, and an Interlocutory Judgment signed after a demand of plea duly made, where the Defendant had filed the general issue but neglected to give a copy of it to the Plaintiff's Attorney, was set aside as irregular.—*Lockwood* v. *Brown*, 2 Kerr 82.

(*t*) Where the Plaintiff's Attorney had left the Province, putting a copy of a notice under his office door, and leaving one at the house where he had last lodged, was considered a sufficient service.—*Wheelock* v. *Alden*, 2 Kerr 172. Service of a notice or rule upon an Attorney's clerk, must be made at the office or dwelling house of the Attorney.—*Moulton* v. *Dibblee*, Bert. R. 128, *Califf* v. *Robertson*, Ibid 342.