

afterward for the plaintiff to prove his demand—or the defendant admits his signature to a note, but says he was an infant at the time of signing it—then a day is fixed for him to “prove his allegations.” The plea may be clearly bad in law—as when James Heward, of Detroit, Labourer, sues Thomas Heward, of the same place, Gentleman, for wages, and Thomas appears and saying that the debt is justly due and owing, pleads that he hired James, acting as agent for the Miami Company at Sandusky. There being no pretence that James knew anything of this, judgment was entered against Thomas for £14-1-3 “reserving to the defendant his recourse for repayment from his Employers.”

And, 19th May, 1791, “George McDougall vs. Jacques Campeau,” Roe filed the declaration, the defendant appeared in person and for “a plea says that he expected the plaintiff would wait for payment, as he had not wherewithal to satisfy him—especially as his land was mortgaged for the money.” These are, no doubt, perfectly satisfactory reasons for not paying, especially “*à* first—but the law is inexorable, and as the “defendant acknowledged the obligation,” “judgment was directed to be entered against him for £165-16-8, Hfx., and interest with costs.” These are taxed at £9-6-6, Hfx. “Hfx.”, of course, means Halifax or Quebec currency.

The defendant may appear in person and deny all liability. He may be allowed to plead before a certain time or a day may be set for the plaintiff to prove his demand. Very rarely, indeed, the defendant's Attorney Walter Roe, or Charles Smyth, by procuration, enters an appearance; sometimes, too, the defendant himself “enters appearance.”

If the defendant upon being called three times, do not appear in person or by Attorney, “it is ordered that a default be entered against him.” That does not mean that judgment is entered for the plaintiff, however—the defendant has another chance—he may appear at the next Court and plead—or fail again to appear, in which case a second default is entered against him, and a day fixed for the plaintiff to proceed to proof. Let me give an instance. In the case of “Richard Dobie, of Montreal, Merch't., v. John Martin, of Detroit, Merch't., on July 16th, 1789 “the plaintiff by Mr. Roe his Attorney, filed his Declaration, and the Defendant being called thrice and not appearing, It is therefore ordered that default be entered against him.” At the Sittings of July 23rd 1789 “Mr. Roe the Attorney for plaintiff, informed the Court that this action was continued last Court day and that the defendant had been then thrice called and not appearing, and a Default was recorded against him. The Defendant now being called again and entered appearance and declares he is not in-