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JUDGMENT IN DEFAULT OF DEFENCE.

Some apparent difficulty appears to exist in the minds of some practitioners as to the proper procedure to be followed in obtaining judgment against defendants who do not appear, in cases to which the special indorsement procedure does not apply, and where there are other defendants on the record as against whom the cause is to be brought to trial. With the view of preventing delays and difficulties in such cases the judges of the High Court have recently framed a regulation for the guidance of the officers of the court in passing records, which we publish in another column, and which is to take effect at the beginning of the new year. Under this regulation it will be necessary that the record should in future show on its face that the action is ripe for hearing against all defendants, as against whom judgment is sought. And hereafter cases are not to be entered for trial till the pleadings are properly closed as to all parties. We may observe that a perusal of the Rules of Court will show that the procedure intended to be followed in such cases is very simple, and is based on the pro confesso procedure of the former Court of Chancery.

In all cases where a motion for judgment is necessary against a non-appearing defendant, he must be served with the statement of claim, because the motion for judgment must be based on the allegations in the statement of claim. The statement of claim, however, need not be served on a non-appearing defendant personally, but, under Rule 330, may be posted in the office whence the writ issued. If the non-appearing defendant does not put in a defence the plaintiff may then under Rules 263, 586 note the pleadings closed as to that defendant, and he is then to be deemed to admit all the statements of fact set forth in the statement of claim. The action is then ready for hearing on motion for judgment as against such defendant. It is possible that in an action for foreclosure or sale, where the writ has been indorsed under Rule 141, it may not be necessary to serve a non-appearing defendant