

ERRATA.

PAGE 3.—Notes (m) and (q), for “*Hilary T. 1 Vict.*,” read, “*Hilary T. 2 Vict.*”
120.—Note (n), for “*Ex parte v. Mazerol*,” read “*Ex parte Mazerol*.”

ADDENDA.

PAGE 8.—To note (g)—“*McPherson v. Hoskins*, before Carter J., July, 1840.”

46.—Note (v)—*Doe v. King*, is reported in 3 Kerr 178.

17.—Note (x).—A second Writ of ca. sa. issued upon a judgment more than a year old, is irregular without a *scire facias* to revive the judgment, unless the original execution issued within a year and day, is on file.—*Brown v. Partlow*, Hil. T., 1847.

25.—Note (q).—A motion to enlarge a rule Nisi for an attachment against a witness, in consequence of not being able to serve him with a copy of the rule, must be made during the term in which the rule was returnable.—*Abbot v. Frink*, Hil. T., 1847.

27.—Note (v).—It is no objection to a motion for judgment as in case of a nonsuit, where a clear default has been committed, that a similar application was unsuccessfully made in a previous term, upon an affidavit which left it doubtful whether the application was not then made too soon.—*Whithers v. Spooner*, 5 N. & G. 721.

Where there are several defendants appearing by separate Attornies, they may each move for judgment as in case of nonsuit.—*Rhodes v. Thomas*, 2 Dowl. & L. 531.

A record having been withdrawn in consequence of the absence of a witness by the contrivance of the defendant's Attorney, a rule for judgment as in case of a nonsuit, was discharged with costs.—*Appleyard v. Todd*, 6 M. & G. 1019.

Where a plaintiff does not proceed to trial according to notice, the defendant may have judgment as in case of a nonsuit, though neither he, nor any person representing him, appeared to claim a nonsuit when the cause was called on.—*Allott v. Bearcroft*, 10 Jur. 972.

The affidavit, in answer to a motion for judgment as in case of a nonsuit, stated, that the case arose out of circumstances similar to those existing in a case of W. against the defendant in this suit, tried at the same assizes, and that the plaintiff withdrew the record in consequence of the Judge, who had tried that case, having decided the question of law against W. A motion for a new trial in that case having been refused, and the facts shewing that the plaintiff in this case could not recover, judgment as in case of a nonsuit, was granted.—*White v. McDonald*; 3 Kerr 220.

27.—Note (w).—In answer to a motion for judgment as in case of a nonsuit, the affidavit of the plaintiff's Attorney stated that a commission had been issued to examine witnesses on the part of the plaintiffs at W., in the United States; that one of plaintiffs residing at W. had written to the other plaintiff residing in this Province, that the commission had been received and would be executed, in consequence of which he gave notice of trial, but was obliged to countermand the same, the commission not having been returned; that the plaintiff residing at W., had since written to the other plaintiff, assigning as a reason for not executing the commission, his own necessary absence on pressing business, and the residence of one of the required witnesses at a distance from the place where the commissioners resided; and stating that the commission should be executed and returned. Held a sufficient excuse.—*Doe d. McTavish v. Rouleston*, Mich. T., 1846.

An application for judgment as in case of a nonsuit, is sufficiently answered by shewing that the plaintiff was ready to proceed to trial, but was prevented from doing so, by the defendant's Attorney objecting to the insufficiency of the notice of trial.—*McDonald v. Rider*, 3 Kerr 218.