

- If any balance remain due to such judgment creditor, after a sale of the land under such execution, he is entitled to claim therefor out of the personal assets of the deceased, under the provisions of section 70 of the Probate Act, (*Rev. Statutes*, ch. 127).—*Burrows v. Isner*. 686
15. — An execution binds the goods of a defendant, as against himself or his personal representatives, from the date of its issue, and can be levied on them notwithstanding his death. (*Young C. J.*, dissenting).—*Burrows v. Isner*. 371
16. — An executor and trustee who has by his pleas admitted that he has funds of the testator's estate in his hands may be compelled, at the suit of his co-executor and co-trustee, on sufficient grounds shown, to pay such funds into Court, and also to lodge in Court all securities representing such funds.—*Dunphy et al. v. Wallace*. 383
17. *Judgment by Default*.—An affidavit to set aside a regular judgment by default must, in general, be made by the defendant himself, and not by his attorney.
The deponent in such a case must swear to a personal knowledge of the facts, and not merely to his belief.—*Malone v. Duggan*. 697
18. *Non-entry of Rule*.—Where a rule is not entered for argument by the party who obtained it within the first four days of the Term in which it is returnable, and no affidavits accounting for the delay are filed by him within the time, the rule will, on motion of the opposite party, be discharged with costs.—*Morton v. Campbell*. 668
19. *Notice of Trial*.—It is no objection to a notice of trial that it is headed with the name of only one of the plaintiffs, if the defendant has not been misled thereby.—*Keane et al v. Sharp*. 540
20. *Recognizance*.—Judgment will be entered on a recognizance against both principal and sureties, where the principal has not appeared in accordance with the condition of such recognizance, and where a rule nisi for such judgment has been served on the sureties, and the principal has left the Province, and they have failed to show cause.—*The Queen v. Cuthley*. 701
21. *Reducing Damages*.—Where a verdict is found against the charge of the Judge, and the uncontradicted evidence of the only witness examined at the trial, for a larger amount than the evidence warrants, the Court will either order a new trial, or, if the plaintiff consents, reduce the damages to the sum warranted by the evidence.
The Court have power so to reduce the damages, with the consent of the plaintiff alone, and against the will of the defendant.
The question of costs in such cases will depend on the particular circumstances.—*Risser et al. v. Hart et al*. 727
22. *Setting aside Pleas*.—Pleas which are only demurrable cannot be set aside as false, frivolous, and vexatious, under *Revised Statutes*, chap. 134, sec. 71.
An application to set aside pleas under this section should be made promptly.
In applications of this kind the falsity of the pleas is always the main enquiry.—*Chipman v. Ritchie*. 710