

HON. R. M. MEREDITH, C.J.C.P.      OCTOBER 13TH, 1913.

HEALEY-PAGE-CHAFFONS, LIMITED v. BAILEY  
AND ANOTHER.

5 O. W. N. 113.

*Trial—Notice of—Time for—Computation—New Rule 248.*

MEREDITH, C.J.C.P., *held*, that Rule 248 means that no case shall be set down for trial until after a 10 days' notice of trial has been given; and then it shall be set down six days before the sittings of the Court. That there was no intention to extend the long standing 10 days' notice.

Motion made on the defendants' behalf, at the Sandwich non-jury sittings, on the 23rd September, 1913, to strike this case out of the list of cases entered for trial, at that sittings, on the ground that it had been irregularly set down.

J. H. Rodd, for the defendants' motion.

F. D. Davis, for the plaintiff. *contra*.

HON. R. M. MEREDITH, C.J.C.P., 23rd September, 1913.  
— Mr. Rodd's contention is that, in effect, sixteen days' notice of trial must now be given, and the recent changes in the wording of rule 538, now 248, give some color to that contention. It was quite clear before such changes that ten days' notice of trial was enough, there was then nothing that would give any kind of encouragement to this motion.

The first section of the changed rule requires that "Ten days' notice of trial shall be given before entering an action for trial"; and the 3rd section requires that an action shall be entered for trial "not later than the sixth day before the commencement of the sittings"; and so the 16 days are made up; 10 days before the action is set down and 6 afterwards.

But I can have no manner of doubt that there was no intention thus to extend the long standing 10 days' notice; nor am I compelled by the literal meaning of the new words of the rule to hold that any change in this respect was brought about.

That which the rule means is this: that no case shall be set down for trial until after a 10 days' notice of trial has been given; and then it shall be set down 6 days before the sittings of the Court.