

18th RULE.—On application made to him in that behalf, the Judge shall determine what number of witnesses shall be allowed on taxation of Costs; the allowance for whose attendance shall be according to the scale in the Schedule, unless otherwise ordered, but in no case to exceed such scale, except the witness attends under *subpoena* from the Superior Courts; and before allowing disbursements to witnesses, the Clerk shall be satisfied by the receipt of the witness, or by the affidavit of the party, or his agent, that satisfaction to the witness has been made.

19th RULE.—Every application for a new trial shall be put in in writing, and show briefly the grounds upon which it is made, which grounds, where matters of fact, requiring proof, shall be supported by affidavit, and the application and every affidavit in support thereof, shall be delivered to the Clerk of the Court wherein the cause was tried, to be by him, on receiving the Fees and the necessary Postage, transmitted by Mail to the Judge with a copy of the original claim, or other paper necessary to the proper understanding of the case.

20th RULE.—Where an application is in the first instance refused by the Judge, the same being notified to the Clerk, the proceedings in the cause shall be continued as if no such application had been made. Where the Judge determines to hear the parties on such application, he shall notify the Clerk thereof, and the hearing shall be at the then next sittings of the Court wherein the suit is pending, and the Clerk shall forthwith issue a summons in the nature of a Rule *nisi*, according to the form of the Schedule, to which shall be annexed the party's application, and every affidavit in support thereof and the same shall operate as a stay of proceedings, and a copy of such summons, to which shall be annexed a copy of the application and of every affidavit in support thereof (such copies to be furnished by the party) shall be served on the opposite party, ten days at least before the day of hearing, and in manner directed by the Statute for the service of a notice of set off; and every copy of affidavit to be used in showing cause against such summons, shall be served on the party applying for the new trial, four clear days before the day of hearing, and in the manner directed by the Statute for the service of a notice of set off.

On the day appointed for the hearing, the Judge, on the appearance of both parties, or in default of the appearance of either party, on proof of the service of the summons, shall proceed to adjudicate upon such application, and to make such order thereupon as shall seem to him to justice to appertain, and all costs incident to the proceeding shall be costs in the cause unless the Judge shall otherwise order.

21st RULE.—The ordinary judgment against executors or administrators shall be, to pay the debt, or damages, and costs, to be levied out of the goods of the deceased in their hands, and as to the costs, if there are no such goods, then to be levied out of their own goods.

22nd RULE.—Where the defence is, that executors or administrators have fully administered, if it be adjudged by the Court, that they have assets not administered, then a like judgment shall go, as in the above case, but only as to the goods of the deceased to the amount proved to be in their hands; and of assets *quando acciderint* as to the residue, the judgment as to the costs shall be that they be levied *de bonis testatoris si, &c., et si non de bonis propriis*:

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