FORMS OF PROCEDURE AND PRACTICE

BEFORE

CANADIAN COURTS

AND

TRIBUNALS

BY

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PREFACE.

The vast increase in Legislation in recent years, and especially the creation of new Courts and Tribunals, has rendered necessary many forms of proceedings that are entirely new. This volume aims to supply a complete collection of the new forms required by the general practitioner.

Particular attention has been given by the authors to the production of a book of forms applicable to all parts of Canada.

A new feature of the work is the section devoted to proceedings in Criminal Cases, while a large space has been allotted to proceedings in Special Matters and before Special Tribunals.

A separate chapter is devoted to Appeals, including Justices, Police Magistrates, Masters and Official Referees, Taxing Officers, and Officers in Chambers; also Appeals to the Divisional Courts from Division Courts, County Courts, Surrogate Courts; a Judge in Court and at Trial, as well as Appeals to the Court of Appeal and the Supreme Court of Canada.

The numerous references throughout the work to the various Statutes and Rules, especially those of recent date, will, it is hoped, be found of convenience to the practitioner. Great care has been taken to provide a full and complete index.

The authors beg to acknowledge the co-operation and assistance of Mr. Featherston Aylesworth, and of many other members of the profession, in giving them access to, and revising the forms.

TABLE OF CONTENTS.

PART I.

GENERAL FORMS OF PROCEEDINGS.

PAGE.

CHAPTER I.—PROCEEDINGS BEFORE ACTION 1

CHAPTER II.—WRIT OF SUMMONS 5
I. Form of writ 5
II. Indorsements 8
(1) Of Money Claims 8
(2) Special Indorsements 12
(3) Claims for Costs 14
(4) Claims for Damages 14
(5) Claims to Equitable Relief 19
(6) Character of Parties 23
III. Service of Writ 24
IV. Service out of Jurisdiction 28
V. Amendment of Writ 29
VI. Renewal of Writ 30

CHAPTER III.—LIS PENDENS 31

CHAPTER IV.—SECURITY FOR COSTS OF ACTION .. 32

CHAPTER V.—APPEARANCE 33

CHAPTER VI.—THIRD PARTY PROCEDURE 37

CHAPTER VII.—PLEADINGS 46
General forms of claim, defence 46
Counter claim and Reply 47
Account 48
Administration 48
Alimony 49

CHAPTER VII.—PLEADINGS.—Continued. PAGE.

Assault and Battery 51
Bills and Notes 51
Breach of Promise of Marriage 53
Building Contract 53
Carriers 54
Charter-Party 56
Company 56
Conversion 57
Copyright 57
Creditors 59
Debt 62
Detinue 63
Drainage 63
Easement 64
False Imprisonment 65
Foreclosure or Sale 65
Fraud 66
Guaranty 70
Libel 70
Lien 71
Life Insurance 72
Malicious Arrest 74
Malicious Prosecution 75
Master and Servant 76
Municipal Corporation 77
Negligence 80
Nuisance 87
Overholding Tenant 87
Partnership 89
Parent 89
Penning back Water 91
Possession 92
Quiet Enjoyment 94
Railways 95
Redemption 101
Repair 103
Rent 103
Replevin 104

CHAPTER VII.—PLEADINGS.—Continued. PAGE.
Returning Officer 104
Sale of Goods 106
Seduction 108
Slander 109
Specific Performance 110
Statute of Frauds 110
Statute of Limitations 111
Tax Deed 111
Title 114
Trade Mark 115
Trespass 117
Use and Occupation 119
Warehouseman 120
Waste 120
Wills 121
Workman 121
Wrongful Distress 123
General Defences 124

CHAPTER VIII.—SPECIAL CASE 126

CHAPTER IX.—PRODUCTION AND INSPECTION OF DOCUMENTS 128

CHAPTER X.—EXAMINATION OF PARTIES AND WITNESSES 137

CHAPTER XI.—ADMISSIONS 150

CHAPTER XII.—NOTICES, &c. 152

CHAPTER XIII.—COMPELLING ATTENDANCE OF PARTIES AND WITNESSES 156

CHAPTER XIV.—AFFIDAVITS 160

CHAPTER XV.—NOTICE OF MOTION 168

CHAPTER XVI.—ORDERS 181

PAGE.

CHAPTER XVII.—SPECIAL MOTIONS 192
I. For Immediate Judgment 192
II. For Particulars 194
III. For Interim Alimony 196
IV. To Strike out Jury Notice 200
V. To Change Place of Trial 202
VI. To Postpone Trial 204

CHAPTER XVIII.—JUDGMENTS 205
I. General Forms 211
II. Particular Judgments .....
III. Settling Judgments 239
IV. Exemplification of Judgments, Certificates, etc. .. 240

CHAPTER XIX.—TAXATION OF COSTS 244

CHAPTER XX.—ENFORCING JUDGMENTS AND ORDERS 249

CHAPTER XXI.—EXAMINATION OF JUDGMENT DEBTOR 269

CHAPTER XXII.—GARNISHEE PROCEEDINGS 271

CHAPTER XXIII.—REFERENCES TO MASTERS AND REFEREES 275

CHAPTER XXIV.—ADMINISTRATION 280

CHAPTER XXV.—FORECLOSURE AND REDEMPTION 306

CHAPTER XXVI.—SALE 321

CHAPTER XXVII.—PAYMENT INTO AND OUT OF COURT 338

CHAPTER XXVIII.—INFANTS 344
I. Guardianship 344
II. Maintenance 352
III. Sale of Infant's Lands 354
IV. Custody of Infants 361

PAGE.

CHAPTER XXIX.—LUNATICS 362

CHAPTER XXX.—TRUSTEES 372

CHAPTER XXXI.—RECEIVERS 382

CHAPTER XXXII.—APPEALS 390

I. Appeals to a Judge in Chambers from Officers in Chambers and Taxing Officers 390
II. Appeals to a Judge in Court from Reports of Masters, Referees and Taxing Officers 391
III. Appeals to a Divisional Court 393
(1) From County, Surrogate or Division Courts. 394
(2) From Judge in Chambers or in Court 396
(3) From Verdicts and Judgments 398
IV. Appeals to the Court of Appeal 401
V. Appeals to the Supreme Court of Canada 415
VI. Appeals to the Privy Council 420

PART II.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.—INJUNCTIONS 422

CHAPTER XXXIV.—INTERPLEADER 435

CHAPTER XXXV.—MANDAMUS 447

CHAPTER XXXVI.—PROHIBITION 452

CHAPTER XXXVII.—QUASHING MUNICIPAL BY-LAWS 457

CHAPTER XXXVIII—CONTROVERTED MUNICIPAL ELECTIONS 461

PART III.

PROCEEDINGS UNDER SPECIAL ACTS.

PAGE.

CHAPTER XXXIX.—ABSCONDING DEBTORS ACT ... 471

CHAPTER XL.—FRAUDULENT DEBTORS ARREST ACT 473

CHAPTER XLI.—ASSIGNMENTS AND PREFERENCES ACT 478

CHAPTER XLII.—CREDITORS RELIEF ACT 481

CHAPTER XLIII.—REPLEVIN ACT 484

CHAPTER XLIV.—DEVOLUTION OF ESTATES ACT. 488

CHAPTER XLV.—DOWER ACT 492

CHAPTER XLVI.—LANDLORD AND TENANTS ACT.. 495

CHAPTER XLVII.—OVERHOLDING TENANTS ACT.. 505

CHAPTER XLVIII.—MORTGAGES ACT 509

CHAPTER XLIX.—MECHANICS AND WAGE EARNERS LIEN ACT 516

CHAPTER L.—QUIETING TITLES ACT 528

CHAPTER LI.—SETTLED ESTATES ACT 536

CHAPTER LII.—PETITION OF RIGHT (ONTARIO) .. 542

CHAPTER LIII.—CONTROVERTED ELECTIONS ACTS 544

PAGE.

CHAPTER LIV.—WINDING-UP ACT 565

I. Petition and Preliminary Proceedings 565
II. Proceedings by Liquidator 579
III. Examination of Officers and others 586
IV. Creditors 589
V. Contributories 593
VI. Staying and Completing Liquidation—Passing Accounts 606

PART IV.

PROCEEDINGS BEFORE SPECIAL COURTS AND TRIBUNALS.

CHAPTER LV.—ARBITRATION PROCEEDINGS 612

CHAPTER LVI.—PROCEEDINGS BEFORE RAILWAY BOARD 626

I. Board of Railway Commissioners for Canada 626
II. Ontario Railway and Municipal Board 634

CHAPTER LVII.—PROCEEDINGS BEFORE THE DRAINAGE REFEREE 644

CHAPTER LVIII.—PROCEEDINGS IN THE EXCHEQUER COURT OF CANADA 356

I. Proceedings against the Crown 656
II. Proceedings by the Crown 658
III. Proceedings between Subject and Subject 662
IV. Proceedings in Admiralty 677

CHAPTER LIX.—COUNTY COURT—SPECIAL FORMS 700

PAGE.

CHAPTER LX.—PROCEEDINGS IN SURROGATE COURTS 715
I. Letters of Administration 715
(1) General Forms 715
(2) Forms under the Succession Duty Act 738
II. Letters of Administration with Will annexed 747
III. Letters Probate 751
IV. Letters of Guardianship 776
V. Passing Accounts 782
VI. Contentious Proceedings 788

CHAPTER LXI.—PROCEEDINGS FOR DIVORCE 806

PART V.

PROCEEDINGS IN CRIMINAL CASES.

CHAPTER LXII.—QUASHING CONVICTIONS 811

CHAPTER LXIII.—CERTIORARI 816

CHAPTER LXIV.—HABEAS CORPUS 828

CHAPTER LXV.—RESERVED CASE 837

CHAPTER LXVI.—APPEALS FROM CONVICTIONS.. 847

CHAPTER LXVII.—BAIL PROCEEDINGS 853

CHAPTER LXVIII.—PROCEEDINGS IN GENERAL SESSIONS 856

CHAPTER LXIX.—EXTRADITION 864

PART I.

GENERAL FORMS OF PROCEEDINGS.

CHAPTER I.

PROCEEDINGS BEFORE ACTION.

1. **NOTICE OF ACTION.**

To A. B., Esquire (Justice of the Peace *or as the case may be*) of the City of ——— in the County of ———.

You are hereby notified that I, C. D. of the City of ——— in the County of ———, (*occupation*), intend, at the expiration of one month from the time when this notice shall have been delivered to you or left for you at your usual place of abode, to commence an action against you in the High Court of Justice for Ontario (*or* in the County Court of the County of ———, *or* in the ——— Division Court in the County of ——— *as the case may be*), to recover damages from you, for that you the said A. B. did on the ——— day of ——— 19— at the City of ——— in the County of cause me to be arrested and imprisoned in the ——— Gaol for the space of three days (*or as the case may be: state the cause of action clearly and explicitly*), to the damage of me the said C. D. of $——— which I claim.

Dated at ——— the ——— day of ——— 19—.

ENDORSEMENT TO BE MADE ON NOTICE.

This notice is given by C. D. (*or if given by his solicitor say* by E. F. of No. ——— ——— Street in the City of ——— in the County of ———, solicitor for the said C. D.) who resides at No. ——— ——— Street in the City of ——— in the County of ———.

Note.—Police Magistrates, Justices of the Peace, and all other officers and persons fulfilling any public duty are entitled to notice of action when sued for any thing done by them in the performance of such duty or in execution of their office. See R. S. O. 1897, Chap. 88, Sec. 1, s.s. (1) and (2) and Sec. 14. See also 62 Vict. (2), Chap. 7, Sec. 3.

2. NOTICE OF ACCIDENT.

Under the Municipal Act.

To The Mayor of the City of ——— (*or* ——— *as the case may be*).

Take notice that on the ——— day of ———, 19—, C. D. of (*insert address of injured person*) met with an accident, and thereby sustained personal injury, on ——— Street (*or* Road) in the Municipality of ———, and that such accident was caused by (*setting out particulars as the case may be*).

Dated at ———, this ——— day of ———, 19—.

3. NOTICE OF ACCIDENT.

Under Workmen's Compensation for Injuries Act.

To A. B. of (*insert employer's address*).

Or

To the ——— Company (*or as the case may be*).

Take notice that on the ——— day of ——— 19— C. D. of (*insert address of injured person*), a workman in your employment, sustained personal injury (*add* of which he died, *if such be the case*), and that such injury was caused by (*state shortly the cause of injury, e.g.,* the fall of a beam).

The said injury arose out of and in the course of his employment.

Dated at ——— the ——— day of ——— 19—.

4. NOTICE TO EDITOR.

Of Libellous Statements in a Newspaper.

Libel and Slander Act, 9 Edw. VII. (1909), Ch. 40.

Take notice that I complain of certain statements published of or concerning me in the issue of the ——— newspaper published on the ——— day of ———, 19—, as being libellous, which said statements are as follows: (*Set out the statements complained of verbatim.*)

And take further notice that this notice is given to you pursuant to The Libel and Slander Act.

Dated at ——— this ——— day of ——— 19—.

To ———,

Editor of ——— Newspaper.

5. DEMAND OF POSSESSION.

To Determine An Express or Implied Tenancy at Will.

To Mr. C. D. (tenant).

I hereby (as agent of and for A. B.) demand and require you forthwith to deliver up possession of the (messuage land and prem-

ises) with the appurtenances, situate at ——— (or in the ——— of ———), in the County of ———, now in your possession, and you are hereby warned not to commit any waste, spoil or damage in or upon the said premises, or any part thereof.

Dated at ——— this ——— day of ——— 19—.

---

6. NOTICE TO QUIT.

I hereby give you notice to quit and deliver up to me possession of the premises now held by you as my tenant, situate at ———, in the (city) of ———, in the County of ———, on the ——— day of ——— next (or at the expiration of the year of your tenancy which will expire next after the end of one half year (*or as the case may be*) from the service of this notice.

Dated this ——— day of ———, 19—.

To C. D. (tenant), or to whom else it may concern.

---

7. NOTICE TO LESSEE.

Prior to Enforcing Right of Re-entry or Forfeiture.

Landlord and Tenants Act, Sec. 13.

To C. D. (of ———), and to the lessee of (*here insert a description of the property*), hereinafter referred to as "the said premises," and to the persons interested.

Whereas by an indenture of lease made the ——— day of ———, 19—, between A. B. of ———, of the one part, and C. D. of ———, of the other part, the said A. B. did demise and lease unto the said C. D. the premises above referred to, and which are more fully described in the said indenture, to hold from the ——— day of ———, 19—, for the term of ——— years, yielding and paying unto the said A. B., his (heirs), executors, administrators and assigns, the annual rent of ———, payable (quarterly on the — days of — and — etc.) (*let all this agree with the terms of the lease*): And whereas the said C. D. did by the said indenture covenant for himself, his heirs, executors, administrators and assigns, amongst other things that (*here set out the covenants for breach of which the right of re-entry is to be enforced in the terms of the lease*). (*If the notice is not given by the original lessor, but by somebody claiming under a derivitive title, here set out the steps by which the title passed to the person giving the notice, as for instance,* "And whereas by an indenture of assignment made the ——— day of ———, 19—, between the said A. B., of the one part, and E. F., of the other part, the said A. B. did assign all his reversion of and in the said premises to the said E. F.") *If there is any condition precedent to the right to demand performance of the covenant, or the right of re-entry, here set it out. Thus, if the breach complained*

of be not repairing after three months notice, set out that the notice was given: this may be done as follows: "And whereas I, the said A. B. (or E. F., then being the lessor of the said premises, and the person possessed of the reversion dependent on the term created by the said indenture of lease, and entitled to sue on the covenants therein contained, and to give the notice hereinafter referred to) did on the ——— day of ——— give or leave notice in writing on the said premises requiring certain repairs and dilapidations specified in a schedule annexed to the said notice to be done and performed within three months after the said date."

Now I, the said A. B. (or "E. F., of ———, now being the lessor of the said premises, in whom the reversion of and in the said premises is vested,") do hereby give you (and each of you) notice that the aforesaid covenants have been broken and that the particular breaches complained of are that (*here set out the breaches complained of. If the breach be for repairs this may be done as follows:* "that you did not in the particulars and respects set forth in the schedule hereto annexed well and sufficiently repair, uphold," etc., *following the terms of the covenant.* A schedule of the dilapidations and wants of repair should in this case be annexed to the notice).

And I do hereby give you (and each of you) notice and require you to remedy the said breach (or breaches) of covenant, and to make compensation for the said breach (or breaches) of covenant, which compensation I compute at the sum of ———, or such other compensation as may be fair and reasonable. And I hereby give you notice that unless within one month (*insert a reasonable time*) or a reasonable time hereafter you remedy the said breach (or breaches) and make reasonable compensation in money for the breach (or breaches) to my satisfaction, I shall commence an action in the High Court of Justice for recovery of possession of the said premises.

Dated this ——— day of ———, 19—.

(Signed) A. B.

Witness, etc.

(*If a schedule is referred to in the notice, here add it thus*):

The schedule referred to in the above notice.

(*Here fill in the schedule.*)

---

8. AUTHORITY OF NEXT FRIEND.

To Prosecute an Action or Proceeding.

I, ———, of ———, authorize Mr. ———, of ———, to commence and prosecute an action in (*or*, to make an application to) the High Court of Justice, on behalf of ———, an infant (*or* a person of unsound mind, not so found, etc.), for (*state briefly the*

object; as, *for example,* the administration of the estate of ———, deceased, *or,* for the appointment of a guardian (*or* committee) of the person and estate of the said ———, and for an allowance for his maintenance *or* for an order for the sale of the lands of the said ———); and to use my name in such action (*or* proceeding) as the next friend of the said ———.

Dated at ——— the ——— day of ——— 19—.

Witness.

CHAPTER II.

WRIT OF SUMMONS.

I. FORM OF WRIT.

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9. WRIT OF SUMMONS.

(*Rule 127.*)

IN THE HIGH COURT OF JUSTICE.

Between A. B., Plaintiff,

and

C. D. and E. F., Defendants.

Name and title of Sovereign, e.g., GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To C. D. of ——— in the County of ——— and E. F. of ——— in the County of ———:

We command you that within ten days after the service of this writ on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B.; and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence on the plaintiff's own shewing, and you may be deemed to have admitted the plaintiff's claim and (subject to Rules of Court) will not be entitled to notice of any further proceedings herein.

Witness the Honourable ——— President of our High Court of Justice at ——— in the year of our Lord 19—.

Clerk.

Memorandum to be subscribed on the writ:

N.B.—This writ is to be served within 12 calendar months from the date thereof, or if renewed within 12 calendar

months from the date of such renewal, including the day of such date, and not afterwards.

The defendant (*or* defendants) may appear hereto by entering an appearance (*or* appearances) either personally or by solicitor at the ——— office at ———.

To be inserted in the margin:

Issued from the Central Office, Toronto (*or* from the office of the Deputy Clerk of the Crown, or Deputy *or* Local Registrar of the High Court of Justice, in the County of ———.)

(*Signature of officer.*)

Indorsements to be made on the writ:

The plaintiff's claim is for, etc. (*as in Forms No. 12, 15 or 16, or as may be*).

Where the writ is to be specially indorsed add The following are the particulars: (*giving them. See Form No. 13. Also add the indorsement for costs contained in Form No. 14.*)

This writ was issued by E. F. of ———, solicitor for the said plaintiff who resides at ——— (*or* this writ was issued by the plaintiff in person, who resides at ——— *mention the city, town or township, and also the name of the street and number of the house of the plaintiff's residence, if any, or in case of a township the number of the lot and concession.*)

Indorsement to be made on the writ after service thereof:

This writ was served by X. Y. on C. D. the defendant (*or* one of the defendants) on ——— day the ——— day of ——— 19—.

Indorsed the ——— day of ——— 19—.

X. Y.
(*Address.*)

---

10. WRIT OF SUMMONS FOR SERVICE OUT OF ONTARIO.

(*Rule 128.*)

IN THE HIGH COURT OF JUSTICE.

Between A. B., Plaintiff,
and
C. D. and E. F., Defendants.

GEORGE THE FIFTH, by the Grace of God, &c. (*as in Form No. 9*).

To C. D. of ———:

We command you C. D., that within (*here insert the number of days directed by the order allowing service*) days after the service on you of this writ (*or* notice of this writ *as the case may be*), and of the plaintiff's statement of claim delivered herewith, inclusive of the day of such service, you cause an appearance to be entered

for you in an action at the suit of A. B., and your defence thereto, if any, to be delivered; and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence on the plaintiff's own shewing, and you may be deemed to have admitted the plaintiff's claim, and (subject to Rules of Court) will not be entitled to notice of any further proceedings herein.

Witness the Honourable ——— President &c.

Memorandum and indorsements as in preceding form.

Indorsements to be made on the writ:

N.B.—This writ is to be used where the defendant or all the defendants or one or more defendant or defendants is or are out of Ontario. When the defendant to be served is not a British subject, and is not in British dominions, notice of the writ, and not the writ itself, is to be served upon him.

Indorsement to be made on the writ after service thereof:

This writ was served by X. Y. on G. H. (the defendant *or* one of the defendants) on ———day the ——— day of ——— 19—.

Indorsed the ——— day of ——— 19—.

X. Y.

(*Address.*)

II. NOTICE IN LIEU OF WRIT OF SUMMONS.

To be Given out of Ontario.

(*Rule 128.*)

IN THE HIGH COURT OF JUSTICE.

Between A. B., Plaintiff,

and

C.D., E.F., and G.H., Defendants.

To G. H. of ———:

Take notice that A. B. of ——— has commenced an action against you G. H. in His Majesty's High Court of Justice in Ontario, by writ of that Court dated the ——— day of ——— A.D. 19—; which writ is indorsed as follows: (*copy in full the indorsements*), and you are required within ——— days after the receipt of this notice and of the plaintiff's statement of claim, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action, and your defence thereto, if any, to be delivered; and in default of your so doing, the said A. B. may proceed therein, and judgment may be given in your absence on the plaintiff's own shewing, and you may be deemed to have admitted the plaintiff's claim, and (subject to Rules of Court) will not be entitled to notice of any further proceedings therein.

You may appear to the said writ by entering an appearance personally or by your solicitor at the ——— office at ———.

Dated &c.

A. B. of ——— &c.

or

X. Y. of ——— &c.

Solicitor for A. B.

N.B.—This notice is to be used when the person to be served is not a British subject, and is not in British dominions.

Indorsement to be made on the notice of the writ after service thereof:

This notice was served by X. Y. on G. H. the defendant (*or* one of the defendants) on ———day the ——— day of ——— 19—.

Indorsed the ——— day of ——— 19—.

X. Y.
(*Address.*)

II. INDORSEMENTS OF WRITS.

12. **INDORSEMENTS OF MONEY CLAIMS.**

Where no Special Indorsement under Rule 138.

Goods Sold.

The plaintiff's claim is $——— for the price of goods sold.

(*This form shall suffice whether the claim be in respect of goods sold and delivered, or of goods bargained and sold.*)

Money lent.

The plaintiff's claim is $——— for money lent (and interest.)

Several demands.

The plaintiff's claim is $——— whereof $——— is for the price of goods sold, and $——— for money lent, and $——— for interest.

Rent.

The plaintiff's claim is $——— for arrears of rent.

Salary, &c.

The plaintiff's claim is $——— for arrears of salary as a clerk (*or as the case may be.*)

Interest.

The plaintiff's claim is $——— for interest upon money lent.

General Average.

The plaintiff's claim is $——— for a general average contribution.

Freight, &c.

The plaintiff's claim is $——— for freight and demurrage.

Penalties.

The plaintiff's claim is $——— for penalties under the Statute ——— Victoriæ, chap. ———.

Banker's balance.

The plaintiff's claim is $——— for money deposited with the defendant as a banker.

Fees, &c. as solicitors.

The plaintiff's claim is $——— for fees for work done (and $——— money expended) as a solicitor.

Commission.

The plaintiff's claim is $——— for commission as (*state character, as auctioneer, broker, &c.*)

Medical attendance, &c.

The plaintiff's claim is $——— for medical attendance.

Return of premium.

The plaintiff's claim is $——— for a return of premiums paid upon policies of insurance.

Warehouse rent.

The plaintiff's claim is $——— for the warehousing of goods.

Carriage of goods.

The plaintiff's claim is $——— for the carriage of goods by railway.

Use and occupation of house.

The plaintiff's claim is $——— for the use and occupation of a house.

Hire of goods.

The plaintiff's claim is $——— for the hire of (*furniture*).

Work done.

The plaintiff's claim is $——— for work done (*as surveyor, &c.*)

Board and lodging.

The plaintiff's claim is $——— for board and lodging.

Schooling.

The plaintiff's claim is $——— for the board, lodging and tuition of X. Y.

Money received.

The plaintiff's claim is $——— for money received by the defendant as solicitor (*or* factor, *or* collector, *or &c.* of the plaintiff.)

Fees of office.

The plaintiff's claim is $——— for fees received by the defendant under colour of the office of ———.

Money overpaid.

The plaintiff's claim is $——— for the return of money overcharged for the carriage of goods by railway.

The plaintiff's claim is $——— for a return of fees overcharged by the defendant as ———.

Return of money by stakeholder.

The plaintiff's claim is $——— for a return of money deposited with the defendant as stakeholder.

Money won, from stakeholder.

The plaintiff's claim is $——— for money entrusted to the defendant as stakeholder, and become payable to plaintiff.

Money entrusted to agent.

The plaintiff's claim is $——— for a return of money entrusted to the defendant as agent of the plaintiff.

Money obtained by fraud.

The plaintiff's claim is $——— for a return of money obtained from the plaintiff by fraud.

Money paid by mistake.

The plaintiff's claim is $——— for a return of money paid to the defendant by mistake.

Money paid for consideration which has failed.

The plaintiff's claim is $——— for a return of money paid to the defendant for (*work to be done, left undone; or a bill to be taken up, not taken up, &c.*)

The plaintiff's claim is $——— for a return of money paid as a deposit upon shares to be allotted.

Money paid by surety for defendant.

The plaintiff's claim is $——— for money paid for the defendant as his surety.

Rent paid.

The plaintiff's claim is $——— for money paid for rent due by the defendant.

Money paid on accommodation bill.

The plaintiff's claim is $——— upon a bill of exchange accepted (*or* indorsed) for the defendant's accommodation.

Contribution by surety.

The plaintiff's claim is $——— for a contribution in respect of money paid by the plaintiff as surety.

By co-debtor.

The plaintiff's claim is $——— for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.

Money paid for calls.

The plaintiff's claim is $——— for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.

Money payable under award.

The plaintiff's claim is $——— for money payable under an award.

Life policy.

The plaintiff's claim is $——— upon a policy of insurance upon the life of X.Y., deceased.

Money bond.

The plaintiff's claim is $——— upon a bond to secure payment of $1,000 and interest.

Foreign judgment.

The plaintiff's claim is $——— upon a judgment of the ——— Court in the Province of Quebec (*or as the case may be.*)

Bill of exchange &c.

The plaintiff's claim is $——— upon a cheque drawn by the defendant.

The plaintiff's claim is $——— upon a bill of exchange accepted [*or* drawn *or* indorsed] by the defendant.

The plaintiff's claim is $——— upon a promissory note made [*or* indorsed] by the defendant.

The plaintiff's claim is $——— against the defendant A.B. as acceptor, and against the defendant C.D. as drawer [*or* indorser], of a bill of exchange.

Surety.

The plaintiff's claim is $——— against the defendant as surety for the price of goods sold.

The plaintiff's claim is $——— against the defendant A.B. as principal, and against the defendant C.D. as surety, for the price of goods sold [*or* arrears of rent *or* for money lent *or* for money received by the defendant A.B. as traveller for the plaintiff, *or* &c.]

Calls.

The plaintiff's claim is $——— for calls upon shares.

13. **SPECIAL INDORSEMENTS.**

Rule 138.

Money had and received.

The plaintiff's claim is for money received by the defendant for the use of the plaintiff. The following are the particulars:—

19—.—2nd January.—

To amount of rents of No. 5 Smith Street collected by defendant	$300
To deposit on intended sale of Blythe Cottage	400
Amount due	$700

Place of trial, Toronto.

Add indorsement for costs.

Goods sold and delivered.

The plaintiff's claim is for the price of goods sold. The following are the particulars:—

19—.—31st December.—

Balance of account for butcher's meat to this date	$142
19—.—1st January to 31st March.	
Butcher's meat supplied	297
	$439
19—.—1st February.—Paid	180
Balance due	$259

Place of trial, Toronto.

Add indorsement for costs.

Guarantee.

The plaintiff's claim is against the defendant A.B. as principal, and against the defendant C.D. as surety, for the price of goods sold to A.B. The following are the particulars:—

19—.—2nd February.—Guarantee by C. D. of the price of woollen goods to be supplied to A.B.

2nd February—To goods	$225
3rd March—To goods	151
17th March—To goods	27
5th April—To goods	65
	$468

Place of trial, Ottawa.

Add indorsement for costs.

Promissory note.

The plaintiff's claim is against the defendant as maker of a promissory note. The following are the particulars:—

Promissory note for $1,000 dated 1st January, 19—, made by defendant, payable 4 months after date:

Principal $1,000
Interest .....
Notarial charges .....
Place of trial, London.

Add indorsement for costs.

Bill of exchange.

The plaintiff's claim is against the defendant A.B. as acceptor, and against the defendant C.D. as drawer, of a bill of exchange. The following are the particulars:—

Bill of exchange for $2,000, dated 1st January, 19—, drawn by defendant C.D. upon and accepted by defendant A.B., payable 3 months after date.

Principal $2,000
Interest .....
Notarial charges .....
Place of trial, Hamilton.

Add indorsement for costs.

Bond.

The plaintiff's claim is for principal and interest due upon a bond. The following are the particulars:

Bond dated 1st January, 19—. Condition for payment of $500 on the 26th December, 19—.

Principal due $500
Interest .....
Place of trial, Belleville.

Add indorsement for costs.

Covenant.

The plaintiff's claim is for principal and interest due under a covenant. The following are the particulars:

Deed dated ——— containing covenant to pay $3,000 and interest.

Principal due $800
Interest .....
Place of trial, Kingston.

Add indorsement for costs.

Recovery of Possession by Landlord.

The plaintiff's claim is to recover possession of a farm and premises called Lot No. 1 in the 5th Con. of the Tp. of ——— in the County of ———, which was let to the defendant by the plaintiff for the term of 3 years from the 29th day of Sept., 19—, which term has expired (*or* as tenant from year to year from the

29th day of Sept., 19—, which said tenancy became duly determined by notice to quit on the 29th day of Sept., 19—.)

The plaintiff also claims $——— for mesne profits.

Place of trial, Lindsay.

Detinue or Recovery of Chattels.

The plaintiff's claim is to recover possession of (*or* for the return of) a certain stallion named "Disturbance," [*or as the case may be*], unlawfully detained by the defendant, of which the plaintiff is [the owner and] unlawfully entitled to the possession.

Place of trial, Toronto.

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14. INDORSEMENT FOR COSTS.

(*Rule 139.*)

Add to the above forms for money claims: and the plaintiff claims $——— for costs; and if the amount claimed be paid to the plaintiff or his solicitor within the time allowed for appearance, further proceedings will be stayed.

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15. INDORSEMENTS FOR DAMAGES.

And other Claims.

Agent &c.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller (and $——— for arrears of wages).

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor (*or &c.*) of the plaintiff (and $——— for money received as factor &c).

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X.Y. to the defendant (*or* plaintiff).

Arbitration.

The plaintiff's claim is for damages for non-compliance with the award of X.Y.

Assault &c.

The plaintiff's claim is for damages for assault (and for false imprisonment and for malicious prosecution).

By husband and wife.

The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff C.D.

Solicitor.

The plaintiff's claim is for damages for injury by the negligence of the defendant as solicitor of the plaintiff.

Bailment.

The plaintiff's claim is for damages for negligence in the custody of goods (and for wrongfully detaining the same).

Pledge.

The plaintiff's claim is for damages for negligence in the keeping of goods pawned (and for wrongfully detaining the same).

Hire.

The plaintiff's claim is for damages for negligence in the custody of furniture lent on hire (*or* a carriage lent), (and for wrongfully &c).

Banker.

The plaintiff's claim is for damages for wrongfully neglecting (*or* refusing) to pay the plaintiff's cheque.

Bill.

The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.

Bond.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a ———.

Carrier.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

Charter-party.

The plaintiff's claim is for damages for breach of charter-party of ship (*Mary*).

Damages for depriving of goods.

The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture &c.

Defamation.

The plaintiff's claim is for damages for libel.

The plaintiff's claim is for damages for slander.

Distress.—Replevin.

The plaintiff's claim is to recover possession of goods wrongfully distrained.

Wrongful distress.

The plaintiff's claim is for damages for improperly distraining.

[*This form shall be sufficient whether the distress complained of be wrongful, or excessive, or irregular, and whether the claim be for damages only, or for double value.*]

Fishery.

The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.

Fraud.

The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [*or* a business *or* shares *or* &c.]

The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A.B.

Guarantee.

The plaintiff's claim is for damages for breach of a contract of guarantee for A.B.

The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.

Insurance.

The plaintiff's claim is for a loss under a policy upon the ship "Royal Charter," and freight or cargo, [*or* for return of premiums.]

[*This form shall be sufficient whether the loss claimed be total or partial.*]

Fire insurance.

The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.

Landlord and tenant.

The plaintiff's claim is for damages for breach of a contract to insure a house.

The plaintiff's claim is for damages for breach of a contract to keep a house in repair.

The plaintiff's claim is for damages for breaches of covenants contained in the lease of a farm.

Medical man.

The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal.

The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence.

The plaintiff's claim is for damages for injury to the plaintiff [*or, if by husband and wife,* to the plaintiff C.D.] by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendants' railway by the negligence of the defendants' servants.

The plaintiff's claim is for damages for injury to the plaintiff at the defendants' railway station from the defective condition of the station.

Lord Campbell's Act.

The plaintiff's claim is as executor of A.B., deceased, for damages for the death of the said A.B., from injuries received while a passenger on the defendants' railway, by the negligence of the defendants' servants.

Promise of marriage.

The plaintiff's claim is for damages for breach of promise of marriage.

Seduction.

The plaintiff's claim is for damages for the seduction of the plaintiff's daughter.

Sale of Goods.

The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [*or* short delivery *or* defective quality *or* other breach of contract of sale] of cotton [*or &c.*]

The plaintiff's claim is for damages for breach of warranty of a horse.

Sale of Land.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [*or* take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] the lease, with goodwill, fixtures and stock-in-trade of a public-house.

The plaintiff's claim is for damages for breach of covenant for title [*or* for quiet enjoyment *or &c.*] in a conveyance of land.

Trespass to land.

The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or* cutting his grass, *or* pulling down his timber, *or* pulling down his fence, *or* removing his gate, *or* using his road or path, *or* crossing his field, *or* depositing sand there, *or* carrying away gravel from thence, *or* carrying away stones from his river.]

Support.

The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house *or* mine].

Way.

The plaintiff's claim is for damages for wrongfully obstructing a way [public highway *or* private way].

Watercourse &c.

The plaintiff's claim is for damages for wrongfully diverting [*or* obstructing *or* polluting *or* diverting waters from] a watercourse.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or* into plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

Pasture.

The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.

[*This form shall be sufficient whatever the nature of the right to pasture be.*]

Light.

The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Patent.

The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Copyright.

The plaintiff's claim is for damages for the infringement of the plaintiff's copyright.

Trade mark.

The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade mark.

Work.

The plaintiff's claim is for damages for breach of contract to build a ship [*or* repair a house &c.]

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship &c.

Nuisance.

The plaintiff's claim is for damage to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or &c.*]

The plaintiff's claim is for damage from nuisance by noise from the defendant's works [*or &c.*]

Innkeeper.

The plaintiff's claim is for damages for loss of the plaintiff's goods in the defendant's inn.

Claim for return of goods; damages.

The plaintiff's claim is for return of household furniture *or &c., or* their value, and for damages for detaining the same.

Dower.

The plaintiff's claim is for dower out of Lot Number ——— (*or describing the property otherwise with reasonable certainty*). And take notice that the plaintiff claims damages for the detention of her dower from the ——— day of ———, 19—.

Recovery of land.

The plaintiff's claim is to recover possession of a house, No. ——— in ——— Street in the City of Ottawa; *or* of the N.E. ¼ of Lot 2 in the 3rd Concession of the Township of ——— in the County of ———.

To establish title and recover rents.

The plaintiff's claim is to establish his title to [*here describe property*], and to recover the rents thereof.

After an indorsement of a claim to land, or to establish title, or both, there may be added:

Mesne profits.

And for mesne profits.

Arrears of rent.

And for an account of rent or arrears of rent.

Breach of covenant.

And for breach of covenant for [*repairs.*]

Mandamus.

To be added to an indorsement if a mandamus is claimed:

And for a mandamus commanding the defendant to ———.

Injunction.

To be added to an indorsement if a mandamus is claimed:

And for an injunction to restrain the defendant from ———.

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16. CLAIMS TO EQUITABLE RELIEF.

Rules 137, 140, 141.

(*a*) *Creditor to administer estate.*

The plaintiff's claim is as a creditor of X.Y. of ———, deceased, to have the [real and] personal estate of the said X.Y. administered. The defendant C.D. is sued as the administrator (*or* executor) of the said X.Y., [and the defendants E.F. and G.H. as his co-heirs-at-law].

(*b*) *Legatee to administer estate.*

The plaintiff's claim is as a legatee under the will dated the ——— day of ———, 19—, of X.Y., deceased, to have the [real and] personal estate of the said X.Y. administered. The defendant C.D. is sued as the executor of the said X.Y. [and the defendants E.F. and G.H. as his devisees].

(*c*) *Partnership account.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and the defendant [under articles of partnership dated the ——— day of ———, 19—], and to have the affairs of the partnership wound up.

(*d*) *By mortgagee for sale and for immediate payment and possession.*

The plaintiff's claim is on a mortgage dated the ——— day of ———, 19—, made between ——— [*or* by deposit of title deeds], and that the mortgage may be enforced by sale [*where desired add* and payment to the plaintiff by the defendant personally of any balance].

If immediate payment is desired add, And to recover from you the defendant (*naming the defendant against whom the relief is claimed*) payment of the amount due under a covenant by [you] in that behalf contained in said mortgage (*or as the case may be*).

If immediate possession is desired add. And to recover immediate possession of the mortgaged premises.

And take notice that the plaintiff claims that there is now due by you for principal money the sum of $——— [*if so add* and for taxes (*or* premiums of insurance *or other matters*) the sum of $———] and for interest the sum of $———, and that you are liable to be charged with these sums with subsequent interest to be computed at the rate of ——— per centum per annum and costs, in and by the judgment to be drawn up, and that in default of payment thereof within six calendar months from the time of drawing up the judgment your interest in the property may be sold, unless before the time allowed you for appearance you file in the office within named a memorandum in writing entitled in this action and signed by yourself or your solicitor to the following effect: "I dispute the amount claimed by the plaintiff in this action," in which case you will be entitled to four days' notice of the taking of the account of the amount due to the plaintiff.

The following is a description of the mortgaged premises: (*set out description sufficient for registration.*)

(*e*) *By mortgagee for foreclosure and for immediate payment and possession.*

The plaintiff's claim is on a mortgage dated the ——— day of ———, 19—, made between ——— [*or* by deposit of title deeds], and that the mortgage may be enforced by foreclosure.

If immediate payment is desired add, And to recover from you the defendant (*naming the defendant against whom the relief is claimed*) payment of the amount due under a covenant by [you] in that behalf contained in said mortgage (*or as the case may be.*)

If order for immediate possession is desired add, And take notice further that the plaintiff claims to be entitled to recover immediate possession of the mortgaged premises.

And take notice that the plaintiff claims that there is now due by you for principal money the sum of $——— [*if so add* and for taxes (*or* premiums of insurance *or other matters*) the sum of $———] and for interest the sum of $———, and that you are liable to be charged with these sums and subsequent interest to be computed at the rate of ——— per centum per annum and costs, in and by the judgment to be drawn up, and that in default of payment thereof within six calendar months from the time of drawing up the judgment your interest in the property may be foreclosed, unless before the time allowed you for appearance you file in the office within named a memorandum in writing entitled in this action and signed by yourself or your solicitor to the following effect: "I dispute the amount claimed by the plaintiff in this action," in which case you will be entitled to four days' notice of the taking of the account of the amount due to the plaintiff.

If you desire a sale of the mortgaged premises instead of a foreclosure, and do not intend to defend the action, you must within the time allowed for appearance file in the office within named a memorandum in writing, entitled in this action and signed by yourself or your solicitor, to the following effect: "I desire a sale of the mortgaged premises in the plaintiff's writ of summons mentioned, or a competent part thereof, instead of a foreclosure," and you must deposit in Court to the credit of this action the sum of $80 to meet the expenses of such sale, and attach to the said memorandum a certificate of the Accountant of the Supreme Court to the effect that such deposit of $80 has been made.

The following is a description of the mortgaged premises: (*set out description sufficient for registration*).

(*f*) *By mortgagor for redemption.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated ——— and made between [*parties*], and to redeem the property comprised therein.

(*g*) *Raising portions.*

The plaintiffs claim is that the sum of $———, which by an indenture of settlement dated ——— was provided for the portions of the younger children of ———, may be raised.

(*h*) *Execution of trusts.*

The plaintiff's claim is to have the trusts of an indenture dated —— and made between ——— carried into execution.

(*i*) *Cancellation or rectification.*

The plaintiff's claim is to have a deed dated ——— and made between [*parties*] set aside or rectified.

(*j*) *Specific performance.*

The plaintiff's claim is for specific performance of an agreement dated the ——— day of ———, 19—, for the sale by the plaintiff to the defendant of certain [*freehold* hereditaments at ———.

(*k*) *Alimony.*

The plaintiff's claim is for alimony; and the plaintiff demands as interim alimony until the trial of the action the monthly (*or* weekly) sum of $——— to be paid to her on the —— day of each month (*or* week) at ——— and the interim costs to which she is entitled by the practice in that behalf.

(*l*) *To set aside deed as fraudulent.*

The plaintiff's claim is on behalf of himself and all others, the creditors of the defendant E.F., to have the following deed set aside and declared fraudulent and void as against the plaintiff and the other creditors of the defendant E.F., to wit: a deed dated ———, 19—, from the said E. F. to the said C.D. of the following lands, being ——— (*give description sufficiently full to identify land beyond any doubt*), and the plaintiff also claims, on behalf of himself and said creditors, to have it declared that a certain judgment obtained by said C.D. against said E.F. in this Court on ———, 19—, for the sum of $——, was and is fraudulent and void, and that the same and the executions issued thereunder be set aside and cancelled.

Note.—Where the plaintiff desires to register a certificate of lis pendens *the indorsement on the writ of summons should contain a short description of the property.*

Indorsement on Writ in Debenture Holders' Action.

The plaintiff claims as a debenture holder of the defendant Company:—

1. For a declaration that the debentures issued by the defendant Company and now outstanding constitute a first charge upon all the property comprised therein.
2. All necessary accounts and inquiries.
3. Payment.
4. Foreclosure and sale.
5. A receiver and manager.

Indorsement on Writ in Debenture Holders' Action where there is a Trust Deed.

The plaintiff claims as a debenture holder of the defendant Company:—

1. To have an account taken of what is due by the defendant Company to the plaintiff and all others entitled to the benefit of a certain indenture made between, etc., and dated, etc.

2. To have the trusts of the said indenture executed under the order of the Court.

3. The appointment of a receiver and manager of the property comprised in the said indenture.

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17. CHARACTER OF PARTIES.

(*Rule 120.*)

Executor.

The plaintiff's claim is as executor [*or* administrator] of C.D., deceased, for ———.

The plaintiff's claim is against the defendant A.B., as executor [*or &c.*] of C.D., deceased, for ———.

The plaintiff's claim is against the defendant A.B., as executor of X.Y., deceased, and against the defendant C.D. in his personal capacity, for ———.

Against Executrix.

The claim of the plaintiff is against the defendant as executrix of C.D., deceased, for ———.

Assignee in Insolvency.

The plaintiff's claim is as assignee in insolvency of A.B., for ———.

The plaintiff's claim is against the defendant as assignee in insolvency of A.B., for ———.

Trustees.

The plaintiff's claim is as [*or* the plaintiff's claim is against the defendant as] trustee under the will of A.B. [*or* under the settlement upon the marriage of A.B. and X.Y. his wife.]

Heir and Devisee.

The plaintiff's claim is against the defendant as heir-at-law of A.B., deceased.

The plaintiff's claim is against the defendant C.D. as heir-at-law, and against the defendant E.F., as devisee, of lands under the will of A.B.

Qui tam Action.

The plaintiff's claim is as well for the King as for himself for ———.

III. SERVICE OF WRITS.

18. AFFIDAVIT OF SERVICE OF WRIT.

(*Rules 145-150.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

I, ———, of the ——— of ——— in the County of ———, (*occupation*), make oath and say as follows:—

1. I did, on the ——— day of ——— 19—, personally serve C.D., the above-named defendant in this action, with a true copy of the writ of summons (*or* notice of the writ of summons) herein hereto annexed, by delivering the same to and leaving the same with the said defendant on the day last aforesaid at ——— in the County of ———.

2. Upon the said copy so served as aforesaid were indorsed at the time of such service true copies of all the indorsements appearing upon the said original writ of summons (*or* notice) except the indorsement hereinafter mentioned.

3. To effect such service I necessarily travelled ——— miles.

4. Subsequently, namely upon the ——— day of ——— 19—, I did indorse upon the said original writ of summons (*or* notice) the day of the month and week of such service.

Sworn, &c.

19. AFFIDAVIT FOR SUBSTITUTIONAL SERVICE.

Of Writ of Summons. (*Rule 146.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

I, E.F., of the City of ——— in the County of ———, make oath and say:—

1. I am an officer in the office of the Sheriff of the County of ——— (*or as the case may be.*)

2. On the ——— day of ——— 19—, the Writ of Summons herein, which is now shown to me and marked Exhibit "A," and a true copy thereof were given to me in order to effect service thereof upon the above-named defendant.

3. (*Here set forth concisely the particulars of the efforts made to serve defendant, and show that the writ has come to the knowledge of the defendant and that he is remaining concealed or evad-*

ing service and why personal service cannot be effected.)

4. *(Show upon what person or in what way substituted service is proposed to be made and the grounds thereof.)*

Sworn, &c.

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20. AFFIDAVIT BY SOLICITOR FOR SUBSTITUTIONAL SERVICE.

I, ———, of the City of ——— in the County of ———, Solicitor for the plaintiff, make oath and say:—

1. I am the Solicitor for the plaintiff herein.

2. On the ——— day of ———, 19—, I delivered a Writ of Summons herein and a copy thereof to the Sheriff of the County of ———, with instructions to him to effect service thereof upon the above-named defendant.

3. The said sheriff has not been able to effect such service, and I have received from him the letter now shown to me and marked Exhibit "A" as to the efforts which he has made to effect service of the said writ.

4. *Shew grounds for substitutional service in the manner proposed.*

(The affidavit may be made by the officer who has attempted to effect personal service, or such affidavit may be used in addition to the affidavit of the solicitor.)

---

21. ORDER FOR SUBSTITUTIONAL SERVICE.

By Mailing. (Rules 146, 167.)

1. It is ordered that service of a copy of this order and of a copy of the writ of summons in this action, by sending the same by a prepaid and registered post letter addressed to the defendant at ———, shall be good and sufficient service of the writ.

2. And it is further ordered that the costs of this application be ———.

---

22. ORDER FOR SUBSTITUTIONAL SERVICE.

By Advertisement. (Rule 146.)

1. It is ordered that service upon the defendant of the writ of summons and statement of claim in this action by publishing this order together with the notice hereon indorsed once a week for ——— weeks preceding the ——— day of ——— 19—, in the ——— newspaper published at ——— be deemed good and sufficient service of said writ and statement of claim.

2. And it is further ordered that the said defendant do enter an appearance to the said writ of summons and file his statement of defence in the ——— office of this Court at ——— on or before the ——— day of ——— 19—.

3. And it is further ordered that the costs of this application be costs in the cause.

(*Signature of officer.*)

NOTICE TO BE INDORSED ON FOREGOING ORDER.

This action is brought to recover $———, the amount due on a promissory note made by the defendant dated &c. (*as in the writ of summons.*)

(*Signature of officer.*)

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23. AFFIDAVIT OF SERVICE BY MAILING.

(*Court and style of cause.*)

I, (*name, address, and occupation of deponent*), of ———, make oath and say as follows:—

1. That I did, on the ——— day of ——— 19—, serve the above-named defendant with a true copy of the writ of summons in this action and a true copy of the order of ——— for substitutional service herein, by posting the same in the postoffice at ——— in a prepaid and registered letter or envelope, addressed to the said defendant at ———, pursuant to the said order.

2. That the said writ of summons appeared to me to have been regularly issued out of the Central Office of the Supreme Court of Judicature against the above-named defendant at the suit of the above-named plaintiff, and was dated the ——— day of ———, 19—.

3. I did, on the ——— day of ———, indorse on the said writ the day of the month and the week of the said service on the said defendant.

---

24. AFFIDAVIT OF SERVICE BY ADVERTISEMENT.

(*Formal parts.*)

I, (*name, address and occupation of deponent*) make oath and say as follows:—

1. That I did, on the ——— day of ———, 19—, serve the above-named defendant with the writ of summons in this action, and with the order for service by advertisement, dated the ——— day of ———, 19—, by causing to be inserted in the (*names of paper or papers, as ordered*), an advertisement in the words following, namely (*set out advertisement in full or exhibit the paper.*)

2. The advertisement aforesaid duly appeared in the said newspapers on (*set out dates.*)

3. *Add sections 2 and 3 of form No. 23.*

Sworn, etc.

25. AFFIDAVIT OF SERVICE ON SUBSTITUTED PERSON.

I, ———, of ———, in the County of ———, make oath and say:—

1. That I did, on the ——— day of ———, 19—, personally serve (John Brown, Esquire, of the City of ———, Solicitor) (*or other person on whom service is directed to be effected*), with a true copy of the writ of summons hereto annexed by delivering the same to and leaving the same with him, the said (John Brown) at the office of the said John Brown, in the said City of ———, and at the same time and place I did also personally serve the said (John Brown) with the order now shown to me, and marked as Exhibit "A," by delivering to and leaving with him a true copy of the said order.

2. *Add sections 2 and 3 of form No. 23.*

3.

Sworn, &c.

---

26. AFFIDAVIT OF SERVICE WHEN POSSESSION VACANT.

I, P.S., of ———, ———, make oath and say as follows:—

1. (*State facts showing that service "cannot otherwise be effected." Show the attempts which have been made to effect service, and the reasons for their failure. The actual or probable whereabouts of the defendant, if known, should be given, or, if such be the fact, it may be stated that he has absconded, and cannot be found.*)

2. On the ——— day of ———, 19—, I posted a true copy of the writ of summons in this action upon the outer (or front) door of the dwelling-house (No. ———, in ——— Street, in the ——— of ———, in the (County) of ——), for the recovery whereof (and of other the premises mentioned in the said writ), this action is brought (*or otherwise state the fixing of the copy of the writ on some conspicuous part of the premises*).

3. At the time of the said posting of the said copy, the said premises in the said writ mentioned, and for recovery of possession whereof this action is brought, were vacant and deserted by the above-named defendant, C.D., who (to the best of my knowledge, information and belief) was lately in possession and occupation thereof (as tenant to the above-named plaintiff), and (to the best of my knowledge and belief) no person was in or upon the said premises, or any part thereof, at the time I posted the said copy, and the said C.D. had before then removed himself (and his family) and his furniture and goods from, and had utterly abandoned and deserted the possession of the said premises, and (to the best of my knowledge and belief) no person was then in possession or occupation thereof, or any part thereof.

4. The said writ of summons appeared to me to have been regularly issued out of the office of the ——— ——— against the above-named defendant, and was dated the ——— day of ———, 19—, and at the time of my posting the said copy as aforesaid, the said writ and copy were subscribed and indorsed in the manner and form prescribed by the rules of ——— Court.

5. I did on the ——— day of ———, 19—, indorse on the said writ the day of the month and the week of the service of the said writ by the posting of the said copy thereof in manner aforesaid.

Sworn, etc. (*as usual.*)

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27. ORDER ALLOWING SERVICE.

It is ordered that service of the writ of summons in this action, effected by (*state how served*) on the ——— day of ———, 19—, be good and sufficient service of the said writ for the recovery of possession of the land or property claimed in this action.

IV. SERVICE OUT OF JURISDICTION.

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28. AFFIDAVIT TO OBTAIN LEAVE TO SERVE WRIT OUT OF THE JURISDICTION.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Ontario Judicature Act, and in the matter of an intended action

Between A.B., Plaintiff,

and

C.D. and E.F., Defendants.

I, ———, of ———, make oath and say as follows:—

1. That I am desirous of commencing an action in this Honourable Court against the above-named defendants for the purpose of (*here state the cause of action, bringing case within one of the classes mentioned in Rule 162*), e.g., recovering possession of (*describing lands within the jurisdiction.*)

Or, obtaining an injunction to restrain the defendants from, &c.

2. (*If so, and where the proposed action is founded upon a contract*). The said defendants have assets within the jurisdiction of this Honourable Court to the amount of $200, at least, which would be liable for the satisfaction of my claim aforesaid in case I should recover judgment in the proposed action.

3. I am advised and believe that I have a good cause of action against the said C.D. and E.F., in respect of the matters aforesaid.

4. The said defendants reside or may probably be found at ———, in the ——— of ———, out of the jurisdiction of this Honourable Court, and the said C.D. is a British subject, and the said E.F. is not a British subject.

29. ORDER FOR SERVICE OUT OF THE JURISDICTION.

(*Rule 162 et seq.*)

1. It is ordered that the plaintiff be at liberty to issue a writ for service out of the jurisdiction on the defendant C.D., who resides at ———.

2. And it is further ordered that service of the said writ of summons and of this order upon the defendant C.D. at ——— aforesaid shall be good and sufficient service of the said writ upon the said defendant.

3. And it is further ordered that the time for appearance to the said writ be within ——— days after the service thereof.

4. And it is further ordered that the costs of this application be ———.

30. AFFIDAVIT OF SERVICE OF NOTICE OF WRIT.

On Foreign Subject Out of Ontario.

1. I did, on ———, the ——— day of ———, 19—, serve the above-named defendant, who is not a British subject, with a notice of the writ of summons in this action, which writ appeared to me to have been regularly issued out of the (Central Office of the High Court of Justice) against the above-named defendant at the suit of the above-named plaintiff, and was dated on the ——— day of ——— 19—, by delivering the said notice to and leaving the same with the said defendant personally at ———, in (Cuba.)

2. At the time of the service of the said notice the said writ and the said notice appeared to be subscribed and indorsed in the manner and form prescribed by the Rules of the Supreme Court.

3. The said notice, at the time of service thereof, purported to be signed, and was, as I am informed and verily believe, signed by ———, of ———, the above-named plaintiff (*or* by ———, of ———, the solicitor for the above-named plaintiff.)

4. A true copy of the said notice is now produced and shown to me, and marked "A".

5. I did afterwards, namely, on ———, the ——— day of ———, 19—, indorse upon the said notice the year and day of the month and week of the service of the said copy.

V. AMENDMENT OF WRIT.

31. PRÆCIPE TO AMEND.

(*Court and Style of Cause.*)

Amend in pursuance of order dated the ——— day of ———, 19—, the writ of summons (*or* the statement of claim *or as may be*) in this action by (*set out amendments required.*)

Dated the ——— day of ———, 19—.

X.Y.
Solicitor for the plaintiff.
(*or as may be.*)

VI. RENEWAL OF WRIT OF SUMMONS.

To Renew Writ After 12 Months from Its Issue.

32. AFFIDAVIT IN SUPPORT OF MOTION.

(*Court and Style of Cause.*)

1. The writ of summons in this action was issued on the ——— day of ———, 19—.

2. On the ——— day of ——— I forwarded the writ and a copy thereof for service to the Sheriff of the County of ———, in whose bailiwick the defendant C.D. lately resided, as I have been informed by the said Sheriff, and verily believe, with instructions to serve the same on the said defendant C.D. without delay.

3 On the ——— day of ———, the said Sheriff returned the said writ to me, with the letter now produced to me, and marked "A".

4. On the ——— day of ———, I forwarded the writ and copy to ——— at ———, being the place referred to in the said Exhibit "A" as the place to which the said defendant C.D. had removed, with instructions, &c.

5. (*Set out in detail, with dates, the various efforts made to effect service within the prescribed time, or other reasons why service has not been made, and then proceed*):

6. I have endeavoured to prosecute this action with effect, and without unnecessary delay, and the delay which has arisen in serving the said defendant with the said writ has not been intentional, but has arisen solely from the difficulty in tracing the said defendant, as hereinbefore stated. (*According to the fact.*)

33. ORDER FOR RENEWAL.

Of Writ of Summons. (*Rule 132.*)

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers ——— day the ——— day of———
(*or as may be.*)
19—.

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the plaintiff, upon reading the affidavit of ——— filed, and upon hearing the solicitor for the plaintiff:

1. It is ordered that the writ of summons in this action be renewed for twelve months from the date of this order.

2. And it is further ordered that the costs of this application be ———.

34. PRÆCIPE TO RENEW WRIT OF SUMMONS.

(*Rule 132.*)

(*Court and Style of Cause.*)

Required in pursuance of order dated the ——— day of ———, 19—, a renewed writ of summons in this action.

Dated the ——— day of ———, 19—.

X.Y.,
Solicitor for the plaintiff.

CHAPTER III.

LIS PENDENS.

35. CERTIFICATE OF LIS PENDENS.

I certify that in a suit or proceeding in the High Court of Justice

Between A.B., Plaintiff,
and
C.D., Defendant,

some title or interest is called in question in the following lands, that is to say: (*describe lands.*) And at the request of the plaintiff this certificate is given for the purpose of registration, pursuant to the statute in such case made and provided.

Given under my hand and the seal of the said High Court at ———, this ——— day of ———, 19—.

[SEAL] Deputy Registrar of the High Court of Justice at ———.

36. CERTIFICATE OF DISCHARGE OF LIS PENDENS.

For Registration.

IN THE HIGH COURT OF JUSTICE.

This is to certify that by an order bearing date the ——— day of ———, 19—, and made by the said Court in a certain action, wherein A.B. is plaintiff and C.D. is defendant, upon the application of the defendant, it was ordered that the said action should be dismissed (*or as the case may be*), and at the request of the said defendant this Certificate is given for the purpose of registration pursuant to the statute in that behalf.

Given under my hand and the seal of the said Court this ——— day of ———, 19—.

[SEAL] Registrar of the High Court of Justice
(*or* Deputy, *or* Local Registrar.)

CHAPTER IV.

SECURITY FOR COSTS OF ACTION.

37. ORDER FOR SECURITY FOR COSTS OF ACTION.

Issued on Præcipe. (*Rule 1199.*)

IN THE HIGH COURT OF JUSTICE.

——— day the ——— day of ———, 19—.

Between A.B., Plaintiff,

and

C.D., Defendant.

Upon application of the defendant, and it appearing by the indorsement on [the copy of the writ of summons] served on said defendant that the said plaintiff resides at ——— out of the jurisdiction of this Court:

1. It is ordered that the plaintiff do within four weeks from the service of this order give security on his behalf in the penal sum of four hundred dollars, to answer the defendant's costs of this action, and that all proceedings be in the meantime stayed.

2. And it is further ordered that in default of such security being given by the plaintiff this action be dismissed (*where there are several defendants* as against such defendant) with costs, unless the Court or Judge upon special application for that purpose otherwise orders.

Clerk of Records and Writs.

38. BOND—SECURITY FOR COSTS OF ACTION.

Rules 1198 et seq.

Know all men by these presents that we, A.B., of the —— of ———, in the County of ———, (*addition*), and C.D., of &c., and E.F., of &c., are jointly and severally held and firmly bound unto G.H., of &c., in the penal sum of four hundred dollars (*or such other sum as may be ordered*), of lawful money of Canada, to be paid to the said G.H., his executors, administrators or assigns, for which payment well and truly to be made, we bind ourselves and each of us binds himself, our, and each of our heirs, executors and administrators, respectively, firmly by these presents.

Sealed with our seals.

Dated this ——— day of ———, 19—.

Whereas by an order dated the ——— day of ———, 19—, and made in a certain action now pending in the High Court of Justice, wherein the said A.B., is plaintiff and the said G.H .is defendant, it was ordered that the said A.B. should within four weeks from the service of the said order give security on his behalf in the

penal sum of four hundred dollars, to answer the costs of the said G.H. of the said action;

Now the condition of this obligation is such that if the above bounden A.B., C.D. and E.F., or one of them, their, or one of their heirs, executors or administrators, do and shall well and truly pay or cause to be paid to the said G.H., his executors, administrators or assigns, all such costs as may be awarded to him, the said G.H., in the said action, then this obligation shall be void, otherwise to remain in full force and virtue.

Signed, Sealed and Delivered
in presence of

A.B. [SEAL]
C.D. [SEAL]
E.F. [SEAL]

Note.—Affidavits of execution and of justification of each surety must be annexed to and filed with the bond.

CHAPTER V.

APPEARANCES &c.

39. APPEARANCE.

(*Rule* 169.)

(*Court and Style of Cause.*)

Enter an appearance for (*giving the names of all the defendants for whom appearance is to be entered*) in this action.

Dated the ——— day of ———, 19—.

X.Y.,
Solicitor for the defendant.
(*or* defendants.)
(Address.)

The said defendant requires (*or* does not require *as the case may be*) a statement of claim to be delivered.

---

40. NOTICE OF ENTRY OF APPEARANCE.

(*Rule 175.*)

(*Court and Style of Cause.*)

Take notice that I have this day entered an appearance at ——— for the defendant C.D. to the writ of summons in this action. [*Where the appearance is conditional or without prejudice to the defendant's right to dispute the jurisdiction of the Court, it should be so stated.*]

The said defendant requires (*or* does not require) delivery of a statement of claim.

Dated the ——— day of ———, 19—.

(Signature)
(Address.)
Solicitor for the defendant.

To G.H.
Solicitor for the plaintiff.

---

41. BY PARTNER UNDER PROTEST.

(*Court and Style of Cause.*)

Enter an appearance in this action under protest for C.D., who is sued as, but denies he is, a partner, in the defendant firm of ——— & Co.

Dated, &c.

X.Y.,
Solicitor for the said C.B.
(Address.)

---

42. NOTICE OF APPEARANCE UNDER PROTEST.

(*Court and Style of Cause.*)

Take notice that I have on this day entered an appearance to the writ of summons in this action under protest for C.D., a person who has been served with the said writ as a partner in the above-named firm of ——.

To the above-named plaintiff and to his solicitor.

(Signed.)
(Address.)

Dated &c.

---

43. ORDER TO ENTER CONDITIONAL APPEARANCE.

(*Rule 173.*)

(*Formal parts.*)

It is ordered that the defendant C.D. be at liberty to enter a conditional appearance herein.

---

44. CONDITIONAL APPEARANCE.

(*Court and style of Cause.*)

Enter an appearance for C.D. in this action without prejudice to his right (to dispute the jurisdiction of this Court, *or* to move against the regularity of the writ of proceedings in this action, *or*

to set aside the writ of summons, copy and service thereof, on the defendant C.D., and all subsequent proceedings as against the defendant C.D.)

Dated, &c.

X.Y.,
Solicitor for the said C.D.
(Address.)

---

45. NOTICE DISPUTING AMOUNT.

(*Court and Style of Cause.*)

Take notice that the defendant disputes the amount claimed by the plaintiff (*or* the defendant insists that the amount due to the plaintiff is $——— only; *or* the defendant insists that the amount due to the plaintiff is $——— for principal and $——— for interest, since the ——— day of ———, &c., and no more, *as the case may be.*)

Dated, &c.

Signature,
Address.
Solicitor for the defendant.

---

46. NOTICE BY TENANT TO HIS LANDLORD.

Of an Action Brought for Recovery of Land.

(*Court and Style of Cause.*)

I hereby notify you that I (*or* the above-named defendant C.D.) was on the ——— day of ———, 19—, served with a copy of the writ of summons in this action annexed hereto, for the recovery of possession of the messuage (*or as the case may be*) and the premises now held by me (*or* by the said C.D.) as your tenant.

Dated, &c.

(Signed) C.D., or X.Y., solicitor for C.D.

---

47. APPEARANCE BY LANDLORD.

By a Landlord Not Named in Writ.

(*Court and Style of Cause.*)

Enter an appearance for E.F. as landlord of the above-named C.D. (and G.H., *or as the case may be*) pursuant to order of ———, dated the ——— day of ———, 19—, (*add if necessary, a statement that the said E.F. limits his defence, etc.*)

Dated, etc.

X.Y. (Solicitor for the said E.F.)
(Address.)

The said E.F. requires a statement of claim to be delivered.

48. NOTICE OF APPEARANCE.

By Party Not Named in Writ.

(Court and Style of Cause.)

Take notice that pursuant to the order of ———, dated ———, E.F., on the ——— day of ———, 19—, entered an appearance to this action (as landlord of the defendant C.D.) (limiting his defence to ———), and required, (*or*, did not require) a statement of claim to be delivered.

Dated ———.

(Signature.)
(Address.)
Solicitor for the said E.F.

To ———,
Solicitor for the plaintiff.

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49. APPEARANCE LIMITING DEFENCE.

In Action for the Recovery of Land. (*Rule* 184.)

(Court and Style of Cause.)

Enter an appearance for the defendant C.D. in this action. The said defendant limits his defence to part only of the property mentioned in the writ of summons, namely: (*describe part.*)

Dated the ——— day of ———, 19—.

X.Y.,
Solicitor for the Defendant C.D.
(Address.)

[The said defendant C.D. requires a statement of claim to be delivered.]

---

50. APPEARANCE.

By Party Served with a Third Party Notice. (*Rule* 210.)

(Court and Style of Cause.)

Enter an appearance for G.H. to the third party notice issued in this action on the ——— day of ———, 19—, by the defendant.

Dated the ——— day of ———, 19—.

X.Y.,
Solicitor for the said G.H.
(Address.)

The said third party G.H. requires a statement of claim to be delivered.

---

51. AFFIDAVIT BY PARTY NOT NAMED IN WRIT.

For Liberty to Appear and Defend.

(Court and Style of Cause.)

I, E.F., of ———, ———, make oath and say as follows:

1. This action is brought for recovery of possession of a

messuage (*or as the case may be*) and premises situate at ———.

2. I am in possesison of the said (messuage and) premises (*or* of ———, part of the said premises) by myself, *or* by the above-named defendant C.D., as my tenant. (*If applicant be in possession, as to part by himself, and as to the residue by tenants, state the facts accordingly.*)

Sworn, etc.

---

52. ORDER FOR LEAVE TO APPEAR.

(*Court and Style of Cause.*)

Upon hearing the solicitor for E.F., and upon reading the affidavit of E.F., filed the ——— day of ———, 19—: It is ordered that the said E.F. be at liberty to appear to and defend the action, (*If as landlord, add,* as landlord of C.D., the defendant, *or,* one of the defendants named in the writ of summons), and to defend for the property claimed (*or,* for part of the property claimed, *as the case may be.*)

Dated the ——— day of ———, 19—.

---

53. PRÆCIPE FOR SEARCH FOR APPEARANCE.

(*Title, etc.*)

Required a search for appearance herein.

Dated the ——— day of ———, 19—.

(Signature of Solicitor.)

CHAPTER VI.

THIRD PARTY PROCEDURE.

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54. AFFIDAVIT IN SUPPORT OF MOTION.

For Leave to Serve Third Party Notice.

(*Court and Style of Cause.*)

I, ———, of ———, the above-named defendant, make oath and say:

1. This action is brought against me by the above-named plaintiff for (*stating the nature of the claim.*)

2. The statement of claim herein was delivered on the ——— day of ———, 19—. I have not yet delivered any defence herein.

3. (*State concisely the nature of and facts relating to the claim to contribution or indemnity which the defendant considers himself to have against the third party, as for example,* By an indenture of bargain and sale, dated the ——— day of ———, 19—, and made between myself of the first part and X.Y. of the

second part, now shown to me and marked Exhibit "A," the said X.Y. covenanted to pay off the mortgage upon the covenants for payment contained in which this action is brought and to indemnify me against all liability to the plaintiff in respect to the said mortgage; *or*, the said bill of exchange sued on herein was accepted by me wholly for the accommodation of X.Y. of &c., and not otherwise.)

And I claim to be indemnified by the said X.Y. against the plaintiff's claim herein.

Sworn, &c.

---

55. ORDER ALLOWING ISSUE OF THIRD PARTY NOTICE.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers
(*or as may be.*)

——— day the ——— day of ——— 19—.

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the defendant and upon reading the affidavit of ——— filed:

1. It is ordered that the above-named defendant be at liberty to issue a third party notice pursuant to Rule 209 for service on ——— of ——— in the County of ———, as the defendant may be advised.

2. And it is further ordered that the costs of this application, and of such third party notice, be reserved to be disposed of on the trial or other final disposition of this action.

---

56. NOTICE TO THIRD PARTY.

(*Rule 209.*)

IN THE HIGH COURT OF JUSTICE.

Notice filed the ——— day of ——— 18—.

Between A.B., Plaintiff,
and
C.D., Defendant.

To Mr. X.Y.

Take notice that this action has been brought by the plaintiff against the defendant as surety for M.N. upon a bond conditioned for payment to the plaintiff of $2,000 and interest.

The defendant C.D. claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are his co-surety under the said bond; (*or* also surety for the said M.N. in respect of the

said matter, under another bond made by you in favor of the said plaintiff, dated the ——— day of ——— A.D. 19—:

or as acceptor of a bill of exchange for $500, dated the ——— day of ——— A.D. 19—, drawn by you upon and accepted by the defendant C.D., and payable three months after date. The defendant C.D. claims to be indemnified by you against liability under the said bill, on the ground that it was accepted for your accommodation:

or to recover damages for a breach of contract for the sale and delivery to the plaintiff of 1,900 tons of coal. The defendant C.D. claims to be indemnified by you against liability in respect to the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.)

And take notice that if you wish to dispute the plaintiff's claim in this action as against the defendant C.D., or your liability to the defendant C.D., you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so appearing, you will be deemed to admit the validity of any judgment obtained against the defendant C.D. and your own liability to contribute or indemnify to the extent herein claimed, which may be summarily enforced against you pursuant to the Rules of the Supreme Court.

C.D.
Or X.Y.
Solicitor for the defendant C.D.

Appearance to be entered at ———.

---

57. APPEARANCE.

By Party Served with a Third Party Notice.

(*Title, &c.*)

Enter an appearance for ——— to the third party notice issued in this action on the ——— day of ———, 19—, by the defendant.

Dated the ——— day of ———, 19—.

(Signed.)
(Address.)

The said defendant ——— requires a statement of claim to be delivered.

---

58. NOTICE OF MOTION FOR DIRECTIONS.

After Appearance by Third Party.

(*Formal parts.*)

On behalf of the defendant C.D. for directions as to the time and manner in which the question herein between the said defendant and ——— (*the third party*) shall be determined in this action.

59. ORDER OF DIRECTIONS.

(*Rule 213.*)

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers
(*or as may be.*)

Monday, the ——— day of ———, 19—.

Between A.B., Plaintiff,
and
C.D., Defendant,
and
E.F., Third Party.

Upon the application of the above-named defendant, upon reading the notice of motion, the plaintiff's statement of claim, the defendant's statement of defence, the third party notice delivered by the defendant to the third party, and the affidavits of ——— filed, and upon hearing the solicitors for the plaintiff, the defendant and the third party:

1. It is ordered that the question of the liability of E.F., the above-named third party, for indemnity or contribution to the defendant for the claim alleged by the defendant in the said third party notice be tried and disposed of at the trial of this action at the sittings to be held at ———, beginning on the ——— day of ——— instant, in case the plaintiff then proceeds to trial, or whenever the said action shall be brought to trial.

2. And it is further ordered that the third party aforesaid be at liberty within seven days from this date to deliver a statement of defence to the claim of the defendant against him as set forth in the said third party notice, as he may be advised.

3. And it is further ordered that the said third party notice and the statement of defence thereto (if any) by the said third party constitute the pleadings or record of the issues between the defendant and the said third party so to be tried.

4. And it is further ordered that the said third party may take all such proceedings for the production of documents and for the examination of the plaintiff and the defendant as may be necessary, giving due notice of the time and place of any such examination to the plaintiff and the defendant.

5. And it is further ordered that the defendant shall accept six days' notice of trial of this action from the plaintiff and that the said third party shall accept five days' notice of trial from the defendant.

6. And it is further ordered that the said third party be at liberty to appear by counsel and defend this action, as he may be advised, so far as regards the question of ———, but upon no other question (*or as the case may be*); and that he be bound by the finding of the jury upon that question subject to appeal (*or as the*

case may be); and that he be at liberty to submit evidence and call witnesses on his own behalf as he may be advised; and that he be at liberty to cross-examine all witnesses called at the said trial by the plaintiff or the defendant.

7. And it is further ordered that the costs to be ultimately paid to or by the said third party be disposed of by the Judge presiding at the said trial.

8. And it is further ordered that the costs of and incidental to this application, and of the application for leave to issue and serve the said third party notice, and of the issue and service thereof, be costs in the cause as between the defendant and the said third party, and that the costs of and incidental to this application incurred by the plaintiff be costs in the cause to the plaintiff in any event against the defendant, subject to the order of the Judge presiding at the said trial as to the liability therefor of the said third party.

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60. ORDER OF DIRECTIONS.

Another Form.

1. It is ordered that the third parties may appear by counsel and defend this action as they may be advised, and may appear at the trial of the action, give evidence, cross-examine witnesses and take such part therein as they may be advised, and that they be bound by the final result of the action.

2. And it is further ordered that in case the third parties desire to set up any defence to the claim of the plaintiff against the defendant not already set up by the defendant, they shall cause notice of such defence to be filed and served within two weeks after the service upon them of this order, and any such notice shall be added to and form part of the record as between the plaintiff and the defendant.

3. And it is further ordered that notice shall be given to the said third parties of any examination for discovery had as between the plaintiff and the defendant and the said third parties shall be at liberty to appear thereon and take part therein: and that the said third parties may take all such proceedings for the production of documents or for examination for discovery as against either plaintiff or defendant, as may be necessary, giving due notice of the time and place of any such examination to all other parties.

4. And it is further ordered that in the event of an appeal being had herein from any interlocutory order or from the judgment at the trial or from the judgment of any Court to which the trial judgment may be carried, notice of such appeal shall be given to the third parties, and they shall be at liberty to attend upon the hearing of such an appeal and take such part therein as they may be advised.

5. And it is further ordered that in the event of the defendant not appealing from any such interlocutory order or from any judgment which may be pronounced in this action by the Court of first instance or by any court to which said judgment may be carried in appeal, and of the third parties or any of them desiring to appeal therefrom, they shall be at liberty to appeal therefrom in the name of the defendant upon giving security to the defendant for all costs which may be incurred upon such appeal or which the defendant may become liable for or ordered to pay, said security to be to the satisfaction of the Registrar of this Court in case the parties differ about the same.

6. And it is further ordered that the right of the defendant to claim indemnity or relief over against the third parties or any of them shall be determined in this action, and for the purpose of determining the same the defendant shall within two weeks from the service of this order deliver to the said third parties a statement of its claim for such indemnity or relief over, and the said third parties shall within two weeks after the delivery of such statement of claim deliver statements of their respective defences thereto, and such statement of claim and statements of defence shall constitute the record as between the defendant and the third parties.

7. And it is further ordered that such record shall be entered for trial at the same sittings at which this action is to be tried, and shall be placed immediately thereafter upon the list for hearing and shall be tried immediately after the trial of the action as between the plaintiff and defendant unless the trial Judge shall otherwise order.

8. And it is further ordered that the costs of this motion as between the plaintiff and defendant and the question of costs and all other questions as between the defendant and the third parties be reserved to be disposed of at the trial of this action as between the defendant and the third parties.

---

61. ORDER OF DIRECTIONS.

Another Form.

Upon hearing the application made in this matter on behalf of the defendant C.D. for directions as to the extent and manner in which the parties made parties in this action are to take part therein, and as to how the questions between the said defendant C.D. and the said third parties are to be determined, and as to the mode and extent in and to which the said third parties shall be bound and made liable by the Judgment in this action, and upon reading the pleadings and proceedings in the cause, and the Order of the Master in Chambers, dated the ——— day of ———, 19—, authorizing the issue of the third party notice making I.K. a third party, and the affidavits and material on which the said order was

made, and the third party notice served on the defendants E.F. and on the said I.K., and the examination of the plaintiff on the motion for immediate Judgment, and upon hearing what was alleged by counsel for the plaintiff, for the defendant C.D., and for the said third parties, and it appearing that the defendant C.D. has already served a statement of claim on the said third parties;

1. It is ordered that the said third parties shall, within ——— days from the date of this order, respectively deliver to the plaintiff and to the said defendant C.D. a defence or statement of the points on which they respectively intend to rely, and that the defendant C.D. do reply thereto within seven days thereafter.

2. It is further ordered that the said third parties be at liberty to appear by counsel at the trial of this action and adduce oral and documentary evidence and cross-examine all witnesses called by the plaintiff or by the defendant C.D., and take such part in the defence and trial of this action as they may be advised and the Judge at the trial may allow, and that they be bound by the result of the trial, and that the question of the liability of the said third parties or either of them to indemnify the said defendant, and the right of the said defendant C.D. to recover from the said I.K. any amount that the plaintiff may recover against him in this action be tried at or after the trial of this action as the Judge shall direct.

3. And it is further ordered that all the parties to this action including the said third parties shall make discovery one to the other as may hereafter be ordered.

4. And it is further ordered that the said third parties shall be entitled to notice of any appeal which may be made by the plaintiff or defendants herein, and that if said third parties desire to appeal from any decision which may be given as between the plaintiff and defendant and which may in the opinion of the said third parties affect them they shall be at liberty to do so without leave of the defendant upon giving to the defendant proper indemnity to be settled by one of the Registrars of this Court.

5. And it is further ordered that the costs of this application be reserved to be disposed of by the said trial Judge, and if not so disposed of then on an application in Chambers.

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62. ORDER SETTING ASIDE

Third Party Notice and Order of Directions.

Upon application made on the ——— day of ——— instant by counsel for J.K. and L.M. sought to be added as third parties herein, and upon application also made by counsel for the plaintiffs, in presence of counsel for the defendants by way of appeal from and to set aside the order of the Master in Chambers herein dated the ——— day of ———, 19—, whereby he ordered that the issues between the defendants and the proposed third parties should be tried after the trial of the action between

the plaintiff and defendant, and that the third parties should be bound by the result of the trial as between the plaintiffs and defendants, upon hearing read the pleadings and proceedings herein, the third party notice, the order of the said Master in Chambers and the affidavits and material used before the said Master, and hearing what was alleged by counsel aforesaid, and judgment having been reserved until this day:

1. It is ordered that the said order of the Master in Chambers appealed from be and the same is hereby set aside.

2. And it is further ordered that the third party notice issued by the defendants be and the same is hereby set aside and vacated, and that the motion for third party directions be and the same is hereby refused.

3. And it is further ordered that the costs of the said third party notice and of the motion before the Master in Chambers and of this appeal be paid by the defendants to the said proposed third parties forthwith after taxation thereof, and that the said costs be costs to the plaintiffs to be paid by the said defendants in any event of this action upon the final taxation of costs therein.

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63. INDORSEMENT OF DEFENCE

And Counterclaim to be Served on Third Party.

(*Rule 249.*)

To the within-named X.Y.

Take notice that if you do not deliver a defence to the within counterclaim of the within-named C.D. within eight days from the service of this defence and counterclaim upon you, you will be liable to have judgment given against you in your absence.

Defence, if any, is to be filed at ———.

A.B.
Solicitor for ———.

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64. JUDGMENT AGAINST THIRD PARTY.

In Default of Appearance.

Between A.B., Plaintiff, and C.D., Defendant, X.Y., Third party.

The said X.Y. mentioned in the third party notice herein, dated the ——— day of ——— 19—, not having appeared herein to such notice, and the defendant having satisfied the judgment herein entered against himself on the ——— day of ———, 19—, and pursuant to the order herein dated the ——— day of ———, 19—.

It is this day adjudged that the defendant ——— do recover against the said X.Y. the sum of $———.

Judgment signed the ——— day of ———, 19—.

65. ORDER FOR JUDGMENT AGAINST THIRD PARTY.

(*Rule 213.*)

Between A.B., Plaintiff, and C.D., Defendant, and E.F., Third Party.

Upon the application of the above named defendant, upon reading the third party notice served by the defendant on E.F. of &c., the affidavit of ——— filed and the affidavit of ——— in answer thereto, and upon hearing the solicitors for the plaintiff, the defendant and the said E.F.:

1. It is ordered that judgment be entered for the defendant against the said E.F. for the sum of $——— and costs to be taxed.

66. JUDGMENT AGAINST THIRD PARTY.

After Trial.

It is this day adjudged that the defendant ——— do recover against the said X.Y. $——— (and the costs incurred by the defendant in defending this action forthwith after taxation thereof, *or as may be ordered*).

67. JUDGMENT DISMISSING CLAIM

Against Third Party.

This action coming before this Court at ———, on the ——— and ——— days of ———, for the trial of the questions between the defendants and the third parties ———, in presence of counsel for the defendants and for the third parties, upon hearing read the evidence taken at the trial of this action, and upon hearing what was alleged by counsel aforesaid this Court was pleased to direct that this action as to the questions between the defendants and the third parties should stand over for judgment, and the same coming on this day for judgment.

1. This Court doth order and adjudge that the claim of the defendants against the third parties ——— and ——— for indemnity be and the same is hereby dismissed with costs, to be paid by the defendants to the said third parties forthwith after taxation thereof.

CHAPTER VII.
PLEADINGS.

68. STATEMENT OF CLAIM—GENERAL FORM.

IN THE HIGH COURT OF JUSTICE.

Writ issued the ——— day of ——— 19—.
Between A.B., Plaintiff, and E.F., Defendant.

STATEMENT OF CLAIM.

Set out concisely in convenient paragraphs a statement of the material facts relied upon.

The plaintiff claims $———.

The plaintiff proposes that this action shall be tried at ———.

Delivered the ——— day of ——— 19— by X.Y. of ———, solicitor for plaintiff.

69. NOTICE IN LIEU OF STATEMENT OF CLAIM.

(*Rule 245.*)

IN THE HIGH COURT OF JUSTICE.

Writ issued the ——— day of ———19—.
Between A.B., Plaintiff, and C.D., Defendant.

NOTICE IN LIEU OF STATEMENT OF CLAIM.

The particulars of the plaintiff's claim herein, and of the relief and remedy to which he claims to be entitled, appear by the indorsement upon the writ of summons.

The plaintiff proposes that this action shall be tried at ———.

Dated &c.

X.Y. of Number ——— Street, Toronto,
Solicitor for plaintiff *or* plaintiff in person.

70. STATEMENT OF DEFENCE—GENERAL FORM.

IN THE HIGH COURT OF JUSTICE.

Between E.F., Plaintiff, and G.H., Defendant.

STATEMENT OF DEFENCE.

1. The defendant admits the allegations in the 1st and 2nd paragraphs of the plaintiff's statement of claim.

2. (*Set out concisely in convenient paragraphs a statement of the material facts relied upon.*)

Delivered the ——— day of ——— 19—, by X.Y. of ——— solicitor for defendant.

71. DEFENCE AND COUNTERCLAIM—GENERAL FORM.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff, and C.D., Defendant.

Where a third person as well as the plaintiff is made a party to a counterclaim add a second style of cause, thus:

And between C.D., Plaintiff, and A.B. and E.F., Defendants, (By counterclaim.)

STATEMENT OF DEFENCE AND COUNTERCLAIM OF THE ABOVE NAMED C.D.

1. (*Set out as in the preceding form the material facts relied on by way of defence.*)

2. By way of counterclaim the defendant says: (*Set out by reference to paragraphs of defence or as in the case of a statement of claim the material facts relied on by way of counterclaim.*)

The defendant therefore claims (*as in a statement of claim.*)

Delivered the ——— day of ——— 19— by X.Y. of ———, solicitor for defendant C.D.

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72. REPLY—GENERAL FORM.

[*Title as in Statement of Claim omitting Date of Issue of Writ.*]

REPLY.

1. (*If desired*) The plaintiff joins issue upon the defendant's statement of defence.

2. (*Where the plaintiff does not introduce into his statement of claim, originally or by way of amendment, the allegations necessary by way of reply to the defence, set out concisely in convenient paragraphs the material facts relied upon in reply.*)

Delivered the ——— day of ——— 19— by X.Y. of ———, solicitor for plaintiff.

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73. REPLY TO DEFENCE AND COUNTERCLAIM.

General Form.

Where Plaintiff does not introduce into his Statement of Claim, originally or by Amendment, the Allegations necessary by way of Reply to the Defence.

[*Title as in Defence and Counterclaim (if any).*]

REPLY AND DEFENCE TO COUNTERCLAIM.

(*Set out the material facts relied on by way of reply. A joinder of issue on the defence or paragraphs thereof may be added.*)

Delivered the ——— day of ——— 19— by X.Y. of ———, solicitor for plaintiff.

74. ACCOUNT.

Statement of Claim.

1. From the year 19— until recently the plaintiff employed the defendant as his agent for the collection of rents.

2. The defendant, as such agent, received large sums of money for the plaintiff, for which he refuses to account.

3. The defendant wrongfully detained, and still detains, from the plaintiff the plaintiff's books of account, papers and writings.

The plaintiff therefore claims:

1. An account of all sums received by the defendant as agent of the plaintiff.

2. Payment of the amount found due to the plaintiff on the taking of such account.

3. A return of said books, papers and writings.

4. Damages for the retention of said books, papers and writings.

5. The costs of this action.

6. Such further or other relief as the nature of the case may require.

75. ADMINISTRATION.

Creditor.

The plaintiff is a creditor of X.Y. deceased, of whom the defendant C.D. is executor (*or* administrator) and the defendant E.F. is heir at law (*or* devisee).

Particulars of the claim:

Principal due on the bond of the testator (or intestate) dated ——— of ——— 19— .....$

Interest from the ——— of ——— at 5 per cent..

The plaintiff claims to be paid the amount due to him, or to have the real and personal estate of the said X.Y. administered.

76. ADMINISTRATION.

Wilful Default.

1. The plaintiff is residuary legatee of A.B. of the City of ———, who died March ———, 19—, having made his will dated March ———, 19—, and appointed the defendants his executors, who proved his will on the ——— day of ——— 19—.

2. The defendants have been guilty of wilful default in not getting in certain property of the testator.

3. The wilful default on which the plaintiff relies is as follows: C.D. owed to the testator ——— in respect of which no

interest had been paid or acknowledgement given for five years before the testator's death. The defendants were aware of this fact, but never applied to C.D. for payment until more than a year after testator's death, whereby the said sum was lost.

The plaintiff claims:—

(1) Account of testator's personal estate on footing of wilful default.

(2) Administration of the testator's personal estate.

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77. ADMINISTRATION—DEFENCES.

1. The defendants do not admit the plaintiff's claim.

(*or*)

The defendant A.B. admits the plaintiff's claim, but not assets.

(*or*)

The defendant C.D. admits assets, but not the plaintiff's claim.

2. The claim is barred by the Statute of Limitations.

3. Payment was made by deceased.

4. The claim is fraudulent in the following particulars: (*set out particulars*)

5. The defendant is entitled to a set off, of which the following are the particulars. (*set out particulars*)

6. The claim was released by deed dated the ——— of ———

7. Notice was given and assets distributed under Statute.

Particulars of the Notice.

Advertisements in the Times ———.

" Herald of ———.

" Gazette of ———.

(*Giving the titles of the newspapers and the dates of those in which the advertisement appeared.*)

8. The personal estate of the testator is sufficient to pay the plaintiff his debt if established.

9. The defendant is not heir-at-law or devisee of the deceased.

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78. ALIMONY.

Statement of Claim.

1. The defendant is a farmer and resides in the Township of ——— in the County of ———, and the plaintiff is his wife.

2. The plaintiff was duly married to the defendant in the City of ——— in the County of ——— on the ——— day of ——— 19—, and they lived and cohabited together as husband and wife in the said Township of ——— until the ——— day of ——— 19—, when the plaintiff on account of the cruelty and misconduct of the defendant as hereinafter set forth left the defendant's house and came to live in the City of ——— where she is now residing.

3. Shortly after the plaintiff's marriage the defendant, who is a man of violent passions and ungovernable temper and of an

aggressive and domineering disposition, began to abuse and ill-treat the plaintiff, and on several occasions struck the plaintiff on the head and face with his fists, and on one occasion on or about the ——— day of ——— 19— while she was correcting her child the defendant struck the plaintiff on the arm and back with a stick of stove-wood and said, "I'll teach you to leave that young one alone," or words to a like effect, and on another occasion in or about the month of ——— 19— the defendant violently took hold of the plaintiff and put her head-first into a barrel containing water, and plunged her head into the water and said, "There would be no harm to drown you; nobody would miss you," or words to that effect.

4. The defendant continued his abuse and ill-treatment of the plaintiff from time to time during the year 19—, and whenever anything displeased him, he would give way to his temper and abuse the plaintiff and taunt her and say that he was compelled to marry her, and that he would find a way to get rid of her, and that the plaintiff had no hold on him and that he could turn her out on the road if he chose, and he accused her of immoral conduct and several times threatened to kill her.

5. On or about the ——— day of ——— 19— the defendant in one of his fits of temper took hold of the plaintiff while she was washing dishes and threw her down and violently bumped her head several times on the floor.

6. The next day the plaintiff took her daughter and left the defendant's house and came to the City of ——— where she now resides.

7. The plaintiff has always acted as a faithful and dutiful wife towards her said husband and tried to please him and to live peaceably with him, and she has hitherto suffered and endured his violence and cruelty without complaint in the hope that he might improve in his conduct towards her, but the plaintiff fears that her life would be in danger if she should continue to live with him.

8. The plaintiff has no means with which to support herself and her child, and has been unable to find work in order to earn a living, and she has been compelled to incur debts for the support of herself and child and for medicine and medical attendance.

9. The defendant is the owner of a good and well-stocked farm being Lot ——— in the ——— Concession of the said Township of ——— which is free from incumbrances and worth about $———.

The plaintiff therefore claims:

(1) A declaration that the plaintiff is entitled to alimony from the defendant (and also to interim alimony) sufficient under the circumstances; and that the defendant may be ordered to pay the same; and that for these purposes all necessary directions may be given and accounts taken.

(2) The costs of this action and costs *de die in diem* according to the practice of this Honourable Court.

(3) Such further or other relief as the nature of the case may require.

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79. ASSAULT AND BATTERY.

Statement of Claim.

1. The plaintiff is a ——— residing at ——— in the County of ———.

2. On the ——— day of ——— 19— the defendant assaulted and beat the plaintiff, and the plaintiff was in consequence of his injuries unable to transact his business for a long time and incurred expense for nursing and medical attendance.

The plaintiff therefore claims $——— damages &c.

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80. BILLS AND NOTES.

Statement of Claim.

1. The plaintiff is a mariner residing at ——— in the County of ———. The defendants are or were at the time of the making of the promissory note hereinafter mentioned doing business in co-partnership as lumber dealers at ——— in the County of ———.

2. The defendants on the ——— day of ——— 19— made their promissory note whereby they promised to pay to the order of the plaintiff the sum of $——— three months after the date thereof at the Canadian Bank of Commerce in ———.

3. The said note became due on the ——— day of ——— 19— and the defendants did not pay the same, and the said note is still due and unpaid.

The plaintiff therefore claims:

The sum of $——— and interest thereon at the rate of ——— per cent. per annum from the ——— day of ——— 19— until judgment, and the costs of this action.

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81. DEFENCE TO THE FOREGOING.

STATEMENT OF DEFENCE OF THE DEFENDANT D.C.

1. The defendant D.C. and one J.C. formerly carried on business as dealers in lumber at ——— in the County of ——— in co-partnership under the name of C. Brothers & Company, which said co-partnership was dissolved before the commencement of this action.

2. The promissory note mentioned in the plaintiff's statement of claim was given by the said J.C. without the knowledge or consent of the defendant D.C., and without any authority from the said D.C., and for a debt which was owing by the said J.C. person-

ally and not for or on account of the said co-partnership, and the plaintiff took the said promissory note with full knowledge of the facts above set out.

3. The defendant D.C. never received any value or consideration for the said promissory note.

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82. BILLS AND NOTES.

General Defences.

1. The defendant did not accept the bill.
2. The defendant did not make the note.
3. The defendant did not draw the cheque.
4. The defendant did not indorse to A.B.
5. The defendant (*or* A.B.) did not indorse to the plaintiff.
6. The bill was not presented for payment.
7. The defendant had not due notice of dishonour.
8. The plaintiff was not the holder at the commencement of the action.
9. The bill was accepted (*or* the note was made) for the accommodation of the defendant without consideration.
10. The bill was accepted for the accommodation of the drawer, and indorsed to the plaintiff without consideration.
11. The bill was accepted and delivered to the drawer without consideration for the purpose of his getting it discounted for the defendant, and the drawer, in fraud of the defendant, and contrary to the said purpose, indorsed the bill to the plaintiff without consideration (*or* with notice of the said fraud *or* when overdue.)
12. The defendant was induced to accept by the fraud of the drawer, who indorsed to the plaintiff without consideration (*or* with notice of the fraud *or* when overdue). The particulars of the said fraud are as follows:—The drawer on or about the ——— of ——— 19— falsely and fraudulently stated to the defendant that he had shipped 15,000 bushels of wheat for the defendant on board the vessel "Winona" which he had not done.
13. The defendant accepted the bill (*or* made the note) for and on account of the price of 150 tons of coal to be delivered by the plaintiff to the defendant by the ——— of ——— 19—, and the plaintiff failed to deliver the said coal or any part thereof.
14. The bill (*or* note *or* cheque) was rendered void after issue by a material alteration, viz.: by the alteration of the date from the 21st of January to the 2nd of January.
15. The consideration of the said bill (*or* note) consisted of the purchase money of a patent right, and the said bill (*or* note) did not have written or printed prominently and legibly across the face thereof, before the same was issued, the words "given for a patent right," and the said plaintiff took the said bill (*or* note) with notice of such consideration.

83. BREACH OF PROMISE OF MARRIAGE.

Statement of Claim.

1. The defendant promised to marry the plaintiff on the death of A.B. his mother, which happened on the ——— day of ——— 19—.

2. The defendant refused to marry the plaintiff on the death of the said A.B., or within a reasonable time thereafter.

The plaintiff therefore claims $——— damages, &c.

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84. BREACH OF PROMISE OF MARRIAGE.

Statement of Defence.

1. The defendant never promised as alleged.

2. Before the alleged breach, to wit, on the ——— day of ——— 19— the contract, if any, between the plaintiff and defendant was rescinded by mutual consent, and the plaintiff wholly exonerated and discharged the defendant from the performance of his alleged promise.

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85. BUILDING CONTRACT.

Statement of Claim.

The plaintiff's claim is for work done and materials provided by the plaintiff for the defendant at his request.

Particulars:

1901, January 1 to 31 May. To rebuilding house at ———, as per contract dated the 24th December, 1900	$
To extras as per account delivered	$
	$
Paid on account	$
Balance due	$

The plaintiff also seeks to recover interest on the above balance from the 31st May, 1901, till payment or judgment.

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86. DEFENCE.

The defendant says that—

1. Except as to $———, part of the money claimed, the architect did not grant his certificate pursuant to the contract.

2. As to $———; part of the money claimed, the defendant says—

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87. COUNTERCLAIM.

The defendant says—

1. The contract contained a clause whereby it was provided that the plaintiff should complete the works by the 31st of March, 1901, or in default pay to the defendant $——— a day for every subsequent day during which the works should remain unfinished, and they so remained unfinished for 61 days to the 31st of May.

The defendant counterclaims $———.

88. REPLY.

The plaintiff says that—

1. As to the first paragraphs of the defence, he joins issue.

2. As to the second paragraph thereof, the plaintiff accepts the $——— in satisfaction.

The plaintiff as to the countercalim says that—

3. The liquidated damages were waived by ordering extras and material alterations in the works.

4. The defendant waived the liquidated damages by preventing the plaintiff from having access to the premises till a week after the agreed time.

89. CARRIERS.

Action for Deterioration of Goods.

1. The defendants are carriers of goods for hire.

2. On or about the 23rd day of August, 19—, the plaintiffs delivered to the defendants 400 packages of butter at the City of ——— in the Province of Ontario, to be by them safely and securely carried with reasonable speed to the City of New York in the United States of America, and there shipped on board a steamship to sail therefrom on the 27th day of August aforesaid, and delivered within a reasonable time to the plaintiff as follows: 300 packages thereof at the City of Bristol in the United Kingdom of Great Britain and Ireland, and 100 packages thereof at the Town of Cardiff in the said United Kingdom, and the said defendants received the said goods and undertook to carry the same as aforesaid and upon the terms aforesaid.

3. The defendants did not safely and securely carry the said goods with reasonable speed and within a reasonable time, nor ship the same upon such steamship by the time aforesaid, but detained the same for a long and unreasonable time, and neglected to take proper care thereof while in course of transportation to the loss and damage of the plaintiff as hereinafter mentioned.

4. Owing to the negligence, delay and want of care of the defendants as aforesaid, the said butter was greatly damaged and depreciated in value, and a large part thereof rendered entirely useless, and the plaintiff by reason of the premises suffered loss and damage to the extent of $2,300.

5. The plaintiff has applied to the defendants for payment of the damage sustained by him by reason of their neglect and default as aforesaid, but the said defendants have neglected and refused, and still neglect and refuse, to pay the same.

6. The plaintiff is bringing this action in ignorance from which of the defendants he is entitled to recover.

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90. CARRIERS.

Action for Non-Carriage, and Conversion of Goods.

1. The plaintiffs are merchants carrying on business in the City of Toronto. The defendant is a carrier also carrying on business in the City of Toronto.

2. Before the grievances hereinafter mentioned the plaintiffs had contracted to sell a case of furs to Messrs. A. B. & Co. of Sarnia, and two cases of furs to Messrs. C.D. & Co. of Sarnia.

3. The plaintiffs delivered to the defendant the said three cases of furs directed to the said Messrs. A.B. & Co. and Messrs. C.D. & Co. respectively, to be carried by the defendant as a common carrier, for reward, to the Grand Trunk Railway freight shed for shipment to the consignees per Grand Trunk Railway.

4. The defendant did not deliver the said goods at the Grand Trunk Railway freight shed. While the goods were in the custody of the defendant or his servants, the said goods were by the defendant's servants or by some persons unknown feloniously stolen. The cases were unpacked and their contents abstracted, and the cases were refilled with rubbish and repacked in such a manner that the theft could not be detected from their exterior appearance. They were in this state delivered by the defendant at the said Grand Trunk Railway freight shed, and were there shipped to the consignees.

5. By reason of the conversion by the defendant of the said goods and his default in carrying the same the plaintiffs have lost the value of the said goods. They are also liable to repay the consignees the freight and charges incident to the shipment of the cases.

The plaintiffs therefore claim:

(1) $1,555, the value of the said goods.

(2) Or alternately the said sum for damages for the said conversion.

(3) $15, the amount of the said freight and charges.

(4) The costs of this action.

(5) Such further or other relief as the nature of the case may require.

91. DEFENCE TO THE FOREGOING.

1. The defendant says that he is a carter and not a common carrier, and that he only carriers the goods of his employers when, where or as it is in each case specially agreed by him.

2. The defendant as such carter and not as a common carrier, at the plaintiff's request, received three cases of goods to be conveyed to the Grand Trunk Railway freight shed for shipment, one case to Messrs. A.B. & Co., and two to Messrs. C.D. & Co., at Sarnia, and the defendant used due diligence and care safely and securely to carry the said goods to the said freight sheds.

3. The defendant was not informed and does not know that the said cases contained furs when delivered to him, and also denies that the said cases were unpacked, and that their contents were stolen while they were in the defendant's custody, as is alleged.

4. The defendant does not admit that the said goods were the plaintiff's, and the defendant denies that he converted them, as is alleged.

5. The defendant says that if, when the said cases were delivered by him at the said Grand Trunk Railway freight shed, the said goods were feloniously stolen, as in the statement of claim alleged, they were so stolen without the defendant's knowledge or consent, and without any negligence or want of care of the defendant or his servants, and that he never, expressly or impliedly, agreed or undertook to be liable in case the said goods were feloniously stolen without his default.

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92. CHARTER-PARTY.

Detention.

1. The plaintiff has suffered damage by breach of a charter-party dated the ——— day of ——— 19—, made between the plaintiff and the defendant, of the ship "Alice."

2. The ship was detained at the port of loading for 10 days beyond the demurrage days allowed by the terms of the said charter-party.

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93. COMPANY.

Action Against shareholder for calls.

The plaintiff's claim is for money in which the defendant, as a shareholder of the Company, is indebted to the plaintiffs (being a company incorporated under ——) for ——— calls of $——— each upon ——— shares in the Company of which the defendant is a holder, whereby an action has accrued to the plaintiffs.

Particulars:—

19—(1st) call at $ per share.....$

(2nd) call at $ per share.....$

Amount due .....$

94. CONVERSION.

On the ——— day of ——— 19— the defendant wrongfully deprived the plaintiff of one express delivery waggon belonging to the plaintiff by refusing to give it up on demand.

95. COPYRIGHT—INFRINGEMENT.

Statement of Claim.

1. The plaintiff is an historical writer, and the defendant is a bookseller and publisher carrying on business at ———.

2. On the ——— day of ——— 189— the plaintiff was the proprietor of a subsisting copyright in a book entitled "———."

3. On or about the same date one E.F. printed for sale several thousand copies of the said book.

4. The said E.F. in printing the said copies acted without the consent in writing or otherwise of the plaintiff, and contrary to the statute in that behalf made and provided.

5. The defendant, well knowing the premises and that the said E.F. acted unlawfully in printing the said copies of the said book, sold and offered for sale many copies of the same.

6. In consequence of the matters hereinbefore stated the plaintiff's profits in his said copyright have been much diminished.

96. COPYRIGHT.

Another Form.

1. The plaintiffs are a firm of music publishers whose head office and chief place of business is in the City of ———. The defendant is a music dealer whose place of business is at ——— Street in the City of ———.

2. The said plaintiffs are the owners of the copyright for Great Britain and the British Colonies and Possessions in the song and musical composition called "———." The said song was first published in London, England, on the ——— day of ——— 19—, and was duly entered in the Book of Registry of Copyrights and Assignments at the Hall of the Stationers' Company, London, England, on the ——— day of ——— 19— as No. ———, and a certificate of such entry was duly issued, dated the ——— day of ——— 19—. By such copyright the plaintiffs acquired the sole and exclusive right and liberty of printing, multiplying, publishing, selling and exposing for sale the said song, and all other rights in connection with the production thereof, for Great Britain and the British Colonies and Possessions throughout the world. The plaintiffs have complied in all respects with the requirements of the laws of copyright in Great Britain as affecting the rights of the plaintiffs in the said copyright in Great Britain and in Canada necessary to be complied with to entitle the plaintiffs to the pro-

tection of their said copyright and to the exclusive rights in the same throughout Great Britain, the British Colonies and Possessions aforesaid.

3. The said song has been published and sold by the plaintiffs in great numbers, and is in great demand by the public, and of great popularity, so that the said copyright and the sale of the song so copyrighted has become of great commercial value to the plaintiffs, and such sale has been and is a source of great profit to the plaintiffs in their business as music publishers.

4. The said song published by the plaintiffs is and has been from and since the acquisition of the said copyright on sale by the plaintiffs and their agents, and procurable by the defendant and all others desiring the said song at the ordinary price for such publications.

5. The plaintiffs have recently acquired the information that the defendant has been for a period, the length of which the plaintiffs have not been able to ascertain, but commencing subsequently to the plaintiffs' acquisition of the said copyright, selling and exposing for sale in the City of ——— pirated and unauthorized copies of the song and musical composition mentioned, and that the defendant had at the beginning of this action, and has now in his possession for sale such copies thereof, without the authority of the plaintiffs and against their rights under their said copyright. The said copies of the said song so sold by the defendant as aforesaid were not printed or published by the plaintiffs, but were printed and published and produced by parties other than the plaintiffs, in breach of the plaintiff's rights under their copyright, and the copies of the said song so sold and exposed and in the defendant's possession for sale were printed, published and produced wholly without the plaintiffs' authority, but through the utilizing of a genuine copy of the said song published by or with the authority of the plaintiffs, by some process of copying therefrom so as to produce the same words and music as is contained in the said genuine song and musical composition.

6. The defendant's acts aforesaid in so selling and exposing for sale the said copyrighted song have been and are the cause of very great damage to the plaintiffs, in that among other things the sale by the plaintiffs of the genuine song printed and published by the plaintiffs has been and is largely decreased, and the plaintiffs have suffered a large loss in the loss of the profits which they would have made by the demand for and sale of the said genuine song and musical composition.

7. The plaintiffs caused notice to be given to the defendant prior to the issue of the writ herein warning him of the plaintiffs' rights and against such infringement, but the defendant notwithstanding, knowing the same to have been unlawfully printed, continued to sell large numbers of the said unauthorized song, and is now doing so.

8. The defendant was well aware of the plaintiffs' rights under their said copyright, and that his said acts were unlawful and an infringement of such rights. He will continue to infringe the same by selling and exposing the said pirated copies for sale unless restrained by the injunction of this Honourable Court.

9. The nature of the said musical composition and the public demand for the same are such that although the said composition has acquired a great popularity and sale yet such sale continues only for a limited period of time, and a large proportion of the plaintiffs trade therein was at and about the commencement of this action and is at the present time, and is not likely to continue for any considerable part of the life of the said copyright, but on the contrary only for a very short period thereof, and the commercial value of such copyright lies chiefly in having the exclusive right to trade therein at the present time, and owing to these circumstances and the further fact that the defendant has not sufficient means to answer the plaintiffs' damages or costs, if they should recover any in this action, the damage to the plaintiffs is of an irreparable character and only adequately stopped by the order and injunction of this Honourable Court.

The plaintiffs therefore claim:

1. An injunction restraining the defendant, his servants, workmen and agents from selling, exposing or offering for sale either as a part or as a whole the said musical composition, song or work, or in any way disposing of the same, and from in any manner infringing the plaintiffs' rights under their said copyright.

2. An account of the sales of the said song and a full account of all the defendant's dealings in the said infringements.

3. $——— damages for infringement of the plaintiffs' copyright.

4. An order that the defendant deliver up all copies of the said infringing song that may be in the defendant's possession or under his control.

5. The costs of this action.

6. Such further or other relief as the Court may deem fit.

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97. CREDITOR CLAIMING TO RANK

On Insolvent Estate.

Statement of Claim.

1. On the ——— day of ——— 19— the said E.F. agreed in writing with the plaintiff to furnish to the plaintiff all the elm staves, the output of the said E.F.'s mills at ——— for the season of 19—, not to be less than 800,000, and the plaintiff thereupon

paid to the said E.F. the sum of $1,000 on account of the said contract.

2. The said E.F. has not delivered the said staves or any of them.

3. On the ——— day of ——— 19— the said E.F. made an assignment for the benefit of his creditors to the said C.D.

4. The plaintiff duly filed his claim with the said assignee, which is as follows: (*set forth copy of claim.*)

5. On the ——— day of ——— 19— the assignee served the plaintiff with a notice of contestation of the said claim.

The plaintiff therefore claims:

(1) A declaration that he is entitled to rank upon the estate of the said E.F. for $———, the amount of his said claim.

(2) To be paid his costs of this action.

(3) Such further or other relief as the nature of the case may require.

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98. CREDITOR.

Action to enforce Judgment.

1. On the ——— day of ——— A.D. 19—, the plaintiff recovered judgment against the defendant C.D. for $——— for damages, and $—— for his costs of suit, which said judgment is still in force and unpaid.

2. On the ——— day of ———, 19—, the plaintiff sued out a writ of fieri facias against the goods and chattels and lands and tenements of the said defendent, C.D., which was indorsed with a direction to the Sheriff of the County of ——— to levy the said sum of $———, and with interest from the said ——— day of ———, and the said writ was duly delivered to the Sheriff.

3. The said sheriff is unable to execute the said writ, the defendant not having any goods or chattels, or any lands which can be seized or attached by him under the said writ or otherwise.

4. (*Here set out the facts on which the plaintiff claims the interference of the court as for example*): On the ——— day of ——— 19—, the defendant C.D. was the owner subject to a mortgage for the sum of $——— of the following lands (describe lands) and on that day the defendant executed a conveyance thereof to the defendant E.F. for the stated consideration of $———.

5. The defendant E.F. is the wife of the defendant C.D., and the plaintiff alleges and the fact is, no consideration passed for the conveyance of the said lands, and the said conveyance was made for the purpose of hindering and delaying the execution of the said judgment.

The plaintiff claims:

1. Payment of the amount of the said judgment together with the costs of this action.

2. That the defendant E.F. may be declared to be a trustee under the said lands and that the said lands may be sold to satisfy the said judgment and costs.

3. For the purposes aforesaid all proper payments be made and accounts taken.

4. Such further and other relief as may be just.

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99. CREDITOR.

Action by Simple Contract Creditor to set Aside Fraudulent Conveyance.

Between A.B. who sues as well on his own behalf as on behalf of all others, the creditors of the defendant E.F., Plaintiff, and C.D. and E.F., Defendants.

1. The plaintiff is a ——— carrying on business at ——— in the County of ———, and brings this action on behalf of himself and all others the creditors of the defendant E.F.

2. The defendant E.F. is and was at the date next herein after mentioned, indebted to the plaintiff in the sum of $——— for, &c., which said indebtedness still remains wholly unpaid.

3. On and prior to the ——— day of ———, the defendant E.F., who then carried on business as a merchant in ———, was in insolvent circumstances and unable to pay his debts in full; and the defendant C.D. was then well aware of the insolvent condition of the said E.F., and of his inability to pay his said debts.

4. Prior to the said date the defendants entered into the fraudulent scheme and conspiracy of placing the assets of the defendant E.F. out of reach of his creditors, for the purpose of defeating, defrauding and delaying said creditors.

5. In pursuance of said fraudulent scheme and conspiracy the defendant C.D. by deed bearing date the ——— day of ———, and executed on or about the date thereof, conveyed to his co-defendant the following lands and premises then owned by the defendant E.F. and being (*describing them.*)

6. The plaintiff alleges, and the fact was and is, that no consideration was paid by the said C.D. or received by the said E.F. for said conveyance, but the same was executed as aforesaid for the purpose of defeating, defrauding and delaying the creditors of the defendant E.F.

7. At and prior to the transactions aforesaid the defendant E.F. was and still is indebted to creditors other than the plaintiff in large amounts.

The plaintiff claims:

1. Judgment for the said sum of $——— and his costs of this action.

2. A declaration that the said conveyance is null and void as against the plaintiff and the said other creditors of the defendant E.F.

3. A sale of the said lands under the direction of this Honourable Court, and that the proceeds, after payment of the costs of this suit, may be applied in payment of the claims of the plaintiff and the other creditors of the defendant E.F.

4. The costs of this action.

5. Such further and other relief as may be deemed proper.

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100. **DEBT.**

Goods sold and delivered.

The plaintiffs claim is for the price of goods sold, and delivered.

Particulars:—

19—31st December.—
Balance of account for ————to this date..$
19—1st January to 31st March .....$

$
19—1st February .....Paid $

Balance due .....$

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101. **DEBT.**

Money had and received.

The plaintiffs claim is for money received by the defendant for the use of the plaintiff.

Particulars:—

19—1st January.—
To amount of rents of No. 5, ———— Street collected by the defendant .....$
To deposit on intended sale of ————....$

Amount due .....$

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102. **DEBT.**

Defences to Actions for Simple Contract Debts.

1. The defendant did not order the goods.
2. The goods were not delivered to the defendant.
3. The price was not $———.
4. 1.
5. Except as to $——— *same as* 2.
6. 3.
7. The defendant (*or*, A.B., the defendant's agent) satisfied the claim by payment before action to the plaintiff (*or*, C.D., the plaintiff's agent) on the ——— of ——— 19—.

8. The defendant satisfied the claim by payment after action to the plaintiff on the ——— of ——— 19—.

103. DEBT.

Set-off and Tender.

1. As to $——— part of the money claimed, the defendant is entitled to set off for goods sold and delivered by the defendant to the plaintiff.

Particulars are as follows:—

19—, Jan. 25 To 20 tons of Silkstone coal at $——— .....$

19—, Feb. 1 To 30 tons of Silkstone coal at $——— .....$

$

2. As to the whole (*or*, as to $———, part of the money claimed) the defendant made tender before action (*or*, on the day on which it fell due) of $——— and has paid the same into Court.

104. DETINUE.

Statement of Claim.

The defendant detained from the plaintiff the plaintiff's goods and chattels, that is to say, a horse, harness, and gig.

The plaintiff claims a return of the said goods and chattels or their value, and $——— for their detention.

105. DRAINAGE.

Action under The Municipal Drainage Act for Non-repair of Drain.

Statement of Claim.

1. The plaintiff is a farmer and is the owner of Lot Number ——— in the ——— Concession of the Township of ——— in the County of ———.

2. In or about the year 19— under the laws then in force respecting drainage and local assessment therefor the defendants constructed a drain in the said Township of ——— known as the ——— Drain, and assessed the plaintiff's said land for part of the cost of the same, and it thereupon became and was the duty of the defendants to maintain the said drain and keep it in repair and efficient for the purposes for which it was constructed.

3. Notwithstanding their duty in respect of the said ——— Drain and in breach of the same, the defendants neglected and omitted to maintain and keep in repair the said drain and allowed the same to be greatly filled and grown up with vegetation until the same became in the year 19— almost wholly unfit for the pur-

poses for which it was constructed and incapable of carrying away the waters it was designed to carry away.

4. By reason of the said neglect and breach of duty on the part of the defendants the said ——— Drain at divers times and seasons in the year 19— being unable to carry the waters brought to it by the upper portion of the same became overcharged, and the said waters rose in the said drain and flowed upon the plaintiff's lands and flooded his lands and crops, thereby damaging and destroying the same.

5. By reason of the said neglect and breach of duty of the defendants the plaintiff suffered the following damages and losses in the year 19—, that is to say:

(*Here set forth the particulars.*)

The plaintiff therefore claims:

1. $——— damages.
2. The costs of this action.
3. Such further or other relief as the nature of the case may require.

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106. DEFENCE TO THE FOREGOING.

1. The defendants say that if the plaintiff sustained any damage (which the defendants deny,) such damage was caused by his own want of care and improper husbandry, or by extraordinary rainfalls and floods which the defendants could not be expected and were not bound to provide against, or by causes other than the defendants' neglect to maintain the said drain.

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107. EASEMENT.

Obstruction of Lights.

1. The plaintiff is the owner and occupant of a dwelling house being Number ——— on ——— Street in the City of ———.

2. Prior to the 5th day of March 1880 the plaintiff acquired a prescriptive right to the access and use of the following lights to and for his said dwelling house:

(*Describe the lights fully thus*: The drawing-room window on the east side of the house, *or as the case may be.*)

3. The defendant is erecting a building which will, if continued, materially diminish the light coming through the said windows.

4. The plaintiff claims an injunction to restrain the defendant, his contractors, servants and workmen, from continuing the erection of the said building so as to obstruct or diminish the access of light to the said windows or any of them.

Delivered, &c.

Note.—As to paragraph 2 see The Real Property Limitation Act R.S.O. (1897), Chap. 133, Sec. 36, and 10 Edw. VII. (1910), Chap. 34, Sec. 37.

108. DEFENCE TO THE FOREGOING.

1. The defendant denies that the plaintiff has acquired any prescriptive right to the lights claimed by him in the statement of claim.

2. The defendant further says that the defendant's building will not materially interfere with the plaintiff's lights.

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109. FALSE IMPRISONMENT.

1. On the ——— day of ——— 19— the defendant maliciously and without reasonable or probable cause arrested the plaintiff and caused him to be detained in the Police Station in the Town of ——— for five hours, when he was discharged by an order of a magistrate.

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110. FORECLOSURE OF SALE.

1. The plaintiff is mortgagee of lands belonging to the defendant.

2. The following are the particulars of the mortgage:—

(*If plaintiff's title is a derivative title, state shortly the assignments under which he claims.*)

(If the plaintiff is mortgagee in possession add):

3. The plaintiff took possession of the mortgaged property on the ——— of ———, and is ready to account as mortgagee in possession from that time.

The plaintiff claims payment, or, in default, sale, or foreclosure (and possession).

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111. DEFENCES TO ACTION FOR FORECLOSURE.

1. The defendant did not execute the mortgage.

2. The mortgage was not assigned to the plaintiff (*if more than one assignment is alleged, say which is denied*).

3. The debt is barred by the Statute of Limitations.

4. Payments have been made, as follows:

10 July, 19— $———.

18 October, 19— $———.

5. The plaintiff took possession on the ——— of ——— and received the rents ever since.

6. The plaintiff released the debt by deed, dated ———.

7. The defendant conveyed all his interest to A.B. by deed, dated—

The defendant claims:—

1. Account.

2. Conveyance.

112. FRAUD.

Action to Set aside Fraudulent Judgment and Conveyance.

1. The plaintiff is a merchant carrying on business in ——— in the County of ———.

2. The defendant E.F. was at the date next hereinafter mentioned indebted to the plaintiff in the sum of $——— for goods sold and delivered by the plaintiff to the said defendant; which said indebtedness still remains wholly unpaid and unsatisfied, and the plaintiff holds no security in respect thereof.

3. On and prior to the ——— day of ——— 19— the defendant E.F., who then carried on business as a merchant in ———, was in insolvent circumstances and unable to pay his debts in full, and the defendant C.D. was then well aware of the insolvent condition of the said E.F. and of his inability to pay his said debts.

4. Prior to the said date the defendants entered into the fraudulent scheme and conspiracy of placing the assets of the defendant E.F. out of the reach of his creditors, for the purpose of defeating, defrauding and delaying said creditors, the said scheme being that the defendant C.D. should enter an action in the High Court of Justice against his co-defendant in this action E.F. for an alleged indebtedness of $———, and with the consent of the said E.F. obtain judgment at once thereon, and issue execution upon the said judgment, and under said execution sell the assets of the defendant E.F. other than the lands hereinafter mentioned, and receive the proceeds of such sale, and that the defendant E.F. should also convey to his said co-defendant C.D. the lands and premises hereinafter mentioned for the expressed consideration of $———.

5. In pursuance of the said fraudulent scheme and conspiracy the defendant C.D. commenced an action against his said co-defendant E.F. in the said High Court of Justice on the ——— day of ——— 19—, and on the ——— day of ——— 19— obtained judgment in the said action against his said co-defendant for the sum of $——— for debt and $——— for costs, and execution against the goods of the defendant E.F. was on the said ——— day of ——— 19— issued upon the said judgment and placed in the hands of the Sheriff of the County of ———.

6. The said Sheriff, under the said execution, has sold the goods and chattels of the defendant E.F. and realized from such sale the full amount of said judgment debt.

7. The plaintiff alleges, and the fact was and is, that the said judgment is fraudulent and collusive, and that the defendant E.F. was not at the time of the commencement of the said action, or at the time of obtaining the said judgment, indebted to his said co-defendant.

8. In further pursuance of the said fraudulent scheme and conspiracy, the defendant C.D. by deed bearing date the ——— day

of ——— 19— and executed on or about the date thereof conveyed to his said co-defendant the following lands and premises then owned by the defendant E.F., namely: (*describe lands.*)

9. The plaintiff alleges, and the fact was and is, that no consideration was paid by the said C.D. or received by the said E.F. for said conveyance, but the same was executed as aforesaid for the purpose of defeating, defrauding and delaying the creditors of the defendant E.F.

10. At the time of and prior to the transactions aforesaid the defendant E.F., was and he still is indebted to creditors other than the plaintiff in large amounts.

The plaintiff therefore claims:

1. That the said judgment and the said conveyance may be declared null and void as against the plaintiff and the other creditors of the defendant E.F.

2. That the defendant C.D. may be ordered to account in respect of any moneys which he may have received under the said execution.

3. That the said lands may be sold under the direction of this Honourable Court, and that the proceeds, after payment of the costs of this action, may be applied in payment of the claims of the creditors of the defendant E.F.

4. That the defendants may be ordered to pay the costs of this action and that the plaintiff may have such further or other relief as may be deemed proper.

5. That the defendant C.D., his servants and agents, may be restrained by the injunction of this Court from taking or receiving the proceeds of the sale by the said Sheriff, or any party thereof.

113. DEFENCE TO THE FOREGOING.

STATEMENT OF DEFENCE OF THE DEFENDANT C.D.

1. The defendant E.F. being justly and truly indebted to this defendant in the sum of $———, this defendant caused an action to be instituted in this Honourable Court for the recovery of the said amount, and such proceedings were thereupon had that this defendant recovered against the said defendant E.F. judgment and execution for the amount so justly due and his costs of the said action.

2. This defendant says that he purchased the lands and premises in the statement of claim mentioned from the defendant E.F. for and in consideration of the sum of $———, which he duly paid, and that he obtained a conveyance from the defendant E.F. of the said lands, and this defendant says that he was and is a *bona fide* purchaser for valuable consideration of the said lands.

3. This defendant says that before the plaintiff commenced this action, the said lands had been conveyed to this defendant, and the conveyance thereof had been duly registered in the Registry Office for the County of ———, and the consideration therefor had been paid, without notice or knowledge of the plaintiff's claim, and this defendant claims the benefit of the Registry Acts in force in this Province.

4. This defendant denies the allegations of fraud and conspiracy in the plaintiff's statement of claim set forth.

5. Prior to the commencement of this action, or before notice thereof was given to or received by this defendant or the Sheriff of the County of ———, in whose hands were lodged the writs of execution issued on the judgment recovered by this defendant, the said Sheriff under and by virtue of the said writs sold goods and chattels of the defendant E.F. to the amount of $———, and received the amount, and paid a portion thereof to this defendant, and this defendant says that under these circumstances the plaintiff's remedy, if any he ever had, in respect to the said goods and chattels, (which this defendant denies), no longer exists, and this defendant submits that the plaintiff has by his delay and acquiescence precluded himself from now calling in question the said judgment of this defendant.

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114. DEFENCE OF THE DEFENDANT E.F.

1. This defendant says that he was justly and truly indebted to the defendant C.D. in the sum of $———, and that the said defendant C.D. caused an action to be instituted in this Honourable Court against him for the recovery of the said amount, and such proceedings were thereupon had that the defendant C.D. recovered against this defendant judgment and execution for the amount so justly due and his costs of the said action.

2. This defendant says that he sold the lands and premises in the statement of claim mentioned to the defendant C.D. for and in consideration of the sum of $———, which said sum was paid by the defendant C.D. to him, and thereupon a conveyance was made by this defendant to the defendant C.D. of the said lands, the said defendant C.D. being a *bona fide* purchaser for valuable consideration of the said lands.

3. This defendant denies the allegations of fraud and conspiracy in the plaintiff's statement of claim set forth.

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115. FRAUD.

Misrepresentation.

1. The defendant by a letter bearing date the ——— day of ———, 19—, signed by the defendant, fraudulently represented to

the plaintiff that T.W. then held a responsible situation, and was then in good circumstances, and might be trusted safely with goods on credit.

2. The said T.W. did not then hold a responsible situation, and was not then in good circumstances, and could not then be safely trusted with goods on credit, as the defendant then well knew.

3. The defendant, as he intended, did, by so representing, induce the plaintiff to sell and deliver to the said T.D. goods, namely: (*describe them*), on credit.

4. In consequence of the said fraudulent representations the plaintiff lost the price of the said goods, amounting to the sum of $———, and incurred expense amounting to $——— in endeavouring to recover the same.

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116. FRAUD.

Defence in Action for Fraudulent Misrepresentation.

1. The defendant never made any of the representations alleged in the statement of claim.

2. No one of the said alleged representations, if made, was false in fact; no one of them was false to the knowledge of the defendant; no one of them was made fraudulently or recklessly or without caring whether the same was true or false.

3. The plaintiff was not induced by any of the alleged representations to buy the business and goodwill of the defendant's shop. The plaintiff ascertained for himself the value and extent of the business done at the defendant's shop and the class of customers who dealt there. The plaintiff himself examined the books and visited the said shop before he agreed to purchase the same, and he made the said purchase in reliance upon his own judgment and as the result of his own inquiries and investigations, and not upon any statement or representation made by the defendant.

4. The plaintiff has not suffered the damage alleged or any damage by reason of any act or default of the defendant.

5. The defendant says that the damage claimed is too remote.

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117. FRAUDULENT PROSPECTUS.

1. On ———, the defendant issued a prospectus to the public relating to the A.B. Company, Limited.

2. On ———, the plaintiff received a copy of this prospectus.

3. The plaintiff subscribed for 100 shares in the company on the faith of this prospectus.

4. The prospectus contained misrepresentations of which the following are particulars:—

(a) The prospectus stated ——— ..... whereas in fact ....

(b) The prospectus stated ——— ..... whereas in fact ....

(c) The prospectus stated ——— ..... whereas in fact ....

5. The defendant knew of the real facts as to the above particulars.

6. The following facts, which were within the knowledge of the defendants, are material, and were not stated in the prospectus:—

(a)

(b)

7. The plaintiff has paid calls to the company to the extent of $———.

The plaintiff claims:—

1. Replacement of $——— and interest.
2. Indemnity.

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118. GUARANTY.

The plaintiff's claim is for the price of goods sold and delivered by the plaintiff to E.F. under the following guaranty:—

2nd February, 19—.

In consideration of your supplying to E.F., I undertake to see you paid.

To Mr. A.B. (Plaintiff).

Particulars:—

19—25 March, 55 tons of coal at $———.....$

Amount due .....$

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119. GUARANTY.

Defence.

1. The principal satisfied the claim by payment before action.

2. The defendant was released by the plaintiff giving time to the principal debtor, in pursuance of a binding agreement.

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120. LIBEL.

Statement of Claim.

1. The plaintiff is a ——— residing in the City of ——— in the County of ———, and the defendants are publishers of the ———Daily Times.

2. On the ——— day of ——— 19— the defendants falsely and maliciously wrote, printed and published in the said newspaper of and concerning the plaintiff, and of and concerning the plaintiff in the way of his business as a ———, the words following, that is to say: (*here set out the libel verbatim and the innuendo, if any.*)

The plaintiff therefore claims:—

(1) $——— damages, &c.

121. DEFENCES.

To Action Against Newspaper for Libel.

1. The defendants are the proprietors of a daily newspaper called the ——— Daily Times.

2. The defendants admit that they printed and published in their said newspaper the words set out in paragraph ——— of the plaintiff's statement of claim, but deny that they did so with any of the meanings in the said paragraph alleged.

3. The said words are incapable of bearing the meanings which the plaintiff alleges they bear or any defamatory meaning whatsoever.

4. The said words without the said alleged meanings are not libellous.

5. The said words are part of a fair and accurate report of a public meeting held at ——— lawfully convened for a lawful purpose and open to the public (*or* of proceedings in parliament *or* in a court of justice), and were published by the defendants in good faith for the information of the public and in the usual course of their business as public journalists and without any malice towards the plaintiff, and are therefore privileged.

6. The said words are fair and *bona fide* comment on a matter of public interest, namely, the said public meeting, and were published by the defendants *bona fide* for the benefit of the public and without any malice towards the plaintiff.

7. The said words without the said alleged meanings and according to their natural and ordinary meaning are true in substance and in fact.

8. The words complained of were published, without actual malice and without gross negligence, and the defendant inserted a full apology for the said libel before the commencement of this action (*or* as soon after the commencement of this action as there was an opportunity of doing so).

9. The defendant has paid into court the sum of $——— and says that that sum is sufficient to satisfy the plaintiff's claim.

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122. LIEN.

Action to enforce.

1. On ——— A. and the defendant B. deposited with the plaintiff 500 ——— bonds as security for a debt of $——— and interest at 4 per cent. due from A and the defendant B to the plaintiff.

2. A. died ———.

3. On ——— 19—, administration of the estate of A. was granted to the defendent C.

4. $——— and $——— for interest is owing to the plaintiff on the security of the said bonds.

The Plaintiff claims:—

1. Sale of the said bonds.
2. Application of the proceeds in payment of his debt.
3. Distribution of the surplus among the parties entitled.

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123. LIFE INSURANCE.

Action on a Policy of.

1. The plaintiff A.D. is the widow, and the plaintiffs B.D. and C.D. are the only children and heirs at law of the late R.D., deceased. And the plaintiff E.F. is the executor and sole legal personal representative of the said R.D.

2. The said R.D. died on or about the ——— day of ——— 19—, having first duly made and published his last will and testament duly executed in manner required by law in this Province, bearing date on or about the ——— day of ——— 19—, whereby he appointed the plaintiff E.F. executor thereof.

3. The said R.D. died without having altered or revoked his said will, and the said E.F. duly proved the same and obtained probate thereof.

4. The defendants are a corporation carrying on business in the Province of Ontario and having their head office in ———. The business carried on by the said defendants is that of life assurance, and they are empowered to carry on such business by the following statutes of the Parliament of the Dominion of Canada, namely: (*name them.*)

5. By a contract or policy of assurance in writing, made and issued under the corporate seal of the defendants and duly signed and countersigned by the proper officers thereof, and bearing date on or about the ——— day of ——— 19—, the defendants did, in consideration of the payment of the sum of $——— and of the annual payment of a like sum to be made on or before the ——— day of ——— in each and every year thereafter, promise to pay to the said R.D. (*set out terms of payment.*)

6. The said R.D. duly paid the said sum of $——— to the defendants, and the defendants delivered to the said R.D. the said policy of assurance.

7. The said policy of assurance was in full force and effect at the time of the death of the said R.D.

8. On or about the ——— day of ——— 19— the plaintiffs furnished the defendants with due and sufficient notice and proof of death of the said R.D., and the defendants have never objected to such proof, and all things have happened and all times have elapsed necessary to entitle the said plaintiffs to the fulfilment of the said contract and payment of the said sum of $———, but the said defendants have not carried out the said contract or paid

the said sum of $——, or any part thereof, and the said defendants are indebted to the plaintiffs in the said sum of $——— with interest thereon.

9. By the said will the said R.D. directed the said E.F. to collect the amount of the said policy, and from and out of the same and other moneys to be by him collected to pay (*as the case may be.*)

10. The defendants have neglected and refused and still neglect the refuse to pay the said sum of $——— or any part thereof.

The plaintiffs therefore claim:

1. Payment of the said sum of $——— and interest thereon from the ——— day of ——— 19—, and the costs of this action.

2. Such further or other relief as the nature of the case may require.

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124. DEFENCE TO THE FOREGOING.

1. The defendants admit the ——— and ——— paragraphs of the statement of claim, and the defendants also admit that the plaintiffs furnished them with due and sufficient notice and proof of the death of the said R.D.

2. The defendants say that the contract or policy of assurance mentioned in the ——— paragraph of the statement of claim was made under the following circumstances, namely: The said R.D. by application in writing dated the ——— day of ——— 19— and signed by himself proposed to the defendants, at their place of business at ———, to effect the said insurance on his life.

3. The said application and proposal for insurance contained the following questions and answers: "Question—Has any application ever been made to any company or society for assurance on your life, on which a policy or certificate was not issued? if so, give name, when, and if possible, why?" To which the said R.D. answered "No." "Question —Has any physician given an unfavorable opinion of your life?" To which the said R.D. answered "No."

(*Here state defence.*)

4. The misstatements and suppression of facts as aforesaid, and the irregular habits and impaired state of health of the said R.D. were material to the risks undertaken by the defendants, and were material to be known to the defendants upon the negotiation for the said policy, and by reason of such misstatements and suppressions of facts the said policy was and is and should be declared null and void.

5. By way of counterclaim the defendants repeat the foregoing allegations and claim that the said policy may be declared to be void and may be delivered up to be cancelled.

125. MALICIOUS ARREST.

Statement of Claim.

1. The plaintiff is a contractor and lives in the City of Detroit in the United States of America. The defendant is a farmer and resides in the Township of ——— in the County of ——— in the Province of Ontario.

2. On or about the ——— day of ——— 19— the defendant falsely and maliciously and without reasonable or probable cause made an affidavit in an action then depending in the County Court of the County of ———, wherein the above-named plaintiff was defendant, to the effect that the plaintiff herein was indebted to the defendant in the sum of $——— upon a certain promissory note made by the plaintiff and one E.F., bearing date the ——— day of ——— 19— for $——— in favor of the defendant, and that the plaintiff in or about the spring of 19— absconded from this Province and went to the United States of America with intent to defraud his creditors generally and the defendant in particular, and for the purpose of defeating his creditors in the collection of their claims against him and of preventing the defendant in particular from recovering the amount due to him from the plaintiff, and that he, the defendant, verily believed that unless the plaintiff (who had returned to Ontario for a temporary purpose) were forthwith apprehended, he would again quit this Province with a view to defeating and defrauding his creditors and the defendant in recovering the claims owing by the plaintiff, and upon such false affidavit the defendant procured from the Judge of the said County Court an order for the arrest and imprisonment of the plaintiff until he should have given bail.

3. In the making of the said affidavit and in the application for said order for arrest the defendant imposed upon the said Judge and deceived him by false statements and suppression of the truth, and the defendant concealed from the said Judge facts and circumstances well known to the defendant, and the defendant neglected to make and abstained from making reasonable enquiries in regard to many facts and circumstances which he could have readily ascertained, and which would have shown that the plaintiff was not guilty of the charges made against him by the defendant; and the defendant so acted fraudulently and maliciously with the object of wrongfully obtaining said order for arrest and procuring the arrest and imprisonment of the plaintiff, and he did thereby and by such false statements wrongfully obtain said order for arrest and procure said arrest and imprisonment without any reasonable or probable cause for so doing.

4. The plaintiff was arrested under said order by a sheriff's officer and constable, acting under the direction of the defendant, on or about the ——— day of ———19— at the Town of ———,

and was taken as a prisoner in custody by the said officer in the day-time through the various public streets of the said town on foot, and was conveyed by railway to the Town of ——— in the County of ——— and there imprisoned in the common gaol until he gave bail. The said Judge of the County Court subsequently made an order, confirmed on appeal by this Court, directing the unconditional release of the plaintiff.

5. In consequence of the said false affidavit, and of the said acts and conduct of the defendant, and of the said arrest and imprisonment, the plaintiff has suffered great pain of body and mind, as well as annoyance and disgrace, and loss of time, and loss of credit and reputation.

6. In further consequence of said acts, conduct, arrest and imprisonment, the plaintiff was put to great trouble, expense and costs in and about defending himself and bringing to the knowledge of the said Judge the true facts and circumstances, and in procuring his discharge from custody, and in travelling to and from ——— and to and from his family in Detroit, and in loss of time and employment, and in being discharged by his employer on account of his detention and in seeking other employment, and the plaintiff by reason of the publicity of said false charges and said arrest and imprisonment suffered injury in his standing and reputation.

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126. DEFENCE TO THE FOREGOING.

1. The defendant denies the allegations contained in the 2nd and 3rd paragraphs of the plaintiff's statement of claim.

2. The defendant does not admit the allegations contained in the 4th, 5th and 6th paragraphs of the said statement of claim.

3. The defendant says that he had reasonable and probable cause for believing, and did believe, that the plaintiff absconded from this Province in or about the month of ——— 19— with intent to defeat and defraud his creditors in general and this defendant, who was and is a creditor of the plaintiff, in particular.

4. The defendant in the proceedings complained of pursued what he verily believed to be his remedy under the Statute in that behalf, and was not in any way actuated by malice or other improper motive.

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127. MALICIOUS PROSECUTION.

Statement of Claim.

1. The plaintiff was in the service of the defendant as cook and had been in his service in that capacity for ——— years at the time of the grievances hereinafter mentioned.

2. On the ——— day of ——— 19— the defendant, missing a twenty dollar note which belonged to him, charged the plaintiff

with having stolen it. The plaintiff at once denied the said charge.

3. Thereupon the defendant falsely and maliciously and without any reasonable or probable cause appeared before a Justice of the Peace and charged the plaintiff with having feloniously stolen the said note, and upon such charge procured the said Justice to grant his warrant for apprehending the plaintiff and bringing her before the said Justice, to be dealt with according to law, and under and by virtue of the said warrant caused the plaintiff to be arrested and to be imprisoned for ——— days and then to be brought in custody before the said Justice on the ——— day of ——— 19—.

4. On the said ——— day of ——— 19— the defendant procured the said Justice to remand the plaintiff to prison and caused the plaintiff to be imprisoned until the ——— day of ——— 19— and to be then again brought in custody before the said Justice.

5. Upon the said ——— day of ——— 19— the said Justice having heard the said charge dismissed the same and discharged the plaintiff out of custody, whereby the said prosecution was determined.

6. The plaintiff by reason of the above conduct of the defendant has been injured in her character, and has been put to an expense of $——— in obtaining her release from the said imprisonment.

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128. MASTER AND SERVANT.

Wrongful Dismissal.

1. The plaintiff was engaged by the defendants on the ——— day of ——— 19— as a clerk in the defendants' bank at a salary of $——— a year and upon the terms that he should receive three months' notice of dismissal or three months' salary in lieu of notice.

2. On the ——— day of ——— 19— the defendants dismissed the plaintiff without any notice or salary in lieu of notice.

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129. MUNICIPAL CORPORATION.

Defective Highway.—Action by Parent and Child.

1. The plaintiff Victoria Smith is a widow residing in the City of ——— in the County of ———, and the plaintiff Henrietta Smith is her daughter, and the defendants are a municipal corporation.

2. On the ——— day of November, 19— at dusk about six o'clock in the evening the plaintiff Henrietta Smith, while going in a westerly direction along the sidewalk on the south side of ——— Street about midway between ——— and ——— Streets in the

said City of ———, was caught by her foot in a hole in the sidewalk, and being thrown violently forward struck her knee in another hole in said sidewalk, and the flesh on her leg at and near the knee joint was severely torn and lacerated, by reason of which injuries she was confined to bed for several weeks, and when she was able to be out of bed she was lame, and she is still lame from the effects of said injuries.

3. The said holes were caused by rotting of the boards of the said sidewalk, and in and near the hole in which the said plaintiff struck her knee there were several rusty iron spikes protruding above the surface of the said sidewalk which caused the wounds or part of the wounds received by her as aforesaid.

4. By reason of the condition of the said sidewalk and the said holes and defects therein and the iron spikes projecting above the surface thereof the said street was out of repair and unsafe for travel.

5. ——— Street aforesaid is a public street in the said City of ——— within the territorial limits and under the jurisdiction of the defendants.

6. The said injuries were caused by the negligence and breach of duty of the defendants in allowing the said street to be and remain out of repair.

7. At the time the said injuries were sustained the plaintiff Henrietta Smith was fourteen years of age and resided and she still resides with her mother the plaintiff Victoria Smith.

8. Prior to the happening of the said accident the said Henrietta Smith was able to perform and did perform valuable services of various kinds for her said mother and was of great assistance to her in the management of her household.

9. By reason of the said negligence of the defendants and the injuries sustained by the said Henrietta Smith as aforesaid, the plaintiff Victoria Smith lost the services of her said daughter, and was put to much trouble and loss of time in nursing and caring for her, and has incurred great expense in procuring medicines and medical attendance, and has suffered great anxiety of mind and apprehension lest her said daughter should become permanently lame.

———.

130. DEFENCE TO THE FOREGOING.

1. The defendants say that no notice in writing of the accident alleged in the plaintiff's statement of claim to have happened, and the cause thereof, was served upon or mailed through the Post Office to the Mayor or other head of the defendants or to the Clerk of the Municipality, as required by the Statute in that behalf, and the defendants rely upon the said Statute as a bar to this action.

131. MUNICIPAL CORPORATION.

Failure to Maintain Bridge.

Statement of Claim.

The Plaintiff is a manufacturer of threshing outfits at the ——— of ———, in the County of ———, and the Defendant is a Municipal Corporation in the County of ———.

1. On and prior to the ——— day of ———, 19—, it was the duty of the defendant to maintain a bridge which it had erected over the river ———, crossing a highway in the defendant township, known as the ——— Road, and which bridge is situate at or near ——— in the said defendant township, suitable for the public to travel over and upon with conveyances and other trucks and vehicles and loads.

2. On the said day and prior thereto the defendant failed to maintain said bridge suitable and fit for the purposes aforesaid, in that the spans thereof, between the bents or supports were too long, and the stringers were too light and not strong enough to support loads of permissable and ordinary weight and such stringers, which consisted of light timbers were then unsound and decayed, and were thereby unfit to support conveyances and loads.

3. The plaintiff on said eighteenth day of October, 19—, was possessed of a traction engine, which was then situate in the defendant municipality, and was then lawfully in charge of its (plaintiff's) servant or employee, taking it to the station over the said highway of the defendant, and when passing over said bridge immediately upon its getting on to the same, the said bridge by reason of the defects aforesaid gave way and the said traction engine was precipitated into the river a long distance beneath the level of the bridge, and was badly broken and damaged.

4. The plaintiff was thereby put to large expense in getting its said engine out of said river and in putting the same into repair and lost the sale of the said engine which it had sold and had to pay large sums for freight thereon to the place of repairing the same and the plaintiff otherwise sustained damages by reason of the premises.

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132. DEFENCE AND COUNTERCLAIM TO ABOVE.

1. The defendant corporation admits that it is a Municipal Corporation in the County of ———.

2. The defendant corporation denies all other statements and allegations contained in the said Statement of Claim.

3. The defendant corporation further says that the said bridge mentioned in the said Statement of Claim, was a suitable and proper bridge and the same was in a proper state of maintenance and repair, and fit for the proper purposes of a bridge for the

conveyance across the said river, of all horses, wagons, vehicles, loads, etc.

4. The defendant corporation further says that it was the duty of the plaintiff company, before attempting to cross the said bridge with its traction engine, to have strengthened the said bridge at its own expense, which the plaintiff company neglected to do.

5. The defendant corporation further says that it was the duty of the plaintiff company, before attempting to cross the said bridge with its traction engine, to lay down on the said bridge planks of sufficient width and thickness as would be necessary to fully protect the flooring or surface of said bridge from any injury that might otherwise result to the said bridge, from the contact of the wheels of the said traction engine, which the plaintiff company neglected to do.

6. The defendant corporation further says that, if the plaintiff company suffered damages as alleged in the said Statement of Claim, which the defendant corporation denies, the same were caused by the plaintiff company's own negligence, in the management of its said engine, and in not strengthening the said bridge or laying down planks on said bridge, as required by the statute in that behalf.

By Way of Counterclaim.

7. That owing to the negligence of the plaintiff company its servants or employees, in the management of its traction engine upon said bridge, and in attempting to cross the said bridge before strengthening the same or laying down planks of some sufficient width and thickness as was necessary to fully protect the flooring or surface of said bridge, from any injury that might otherwise result thereto from the contact of the wheels of the said traction engine, as required by the Statute in that behalf, has suffered damages to the extent of $

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133. REPLY.

1. The plaintiff joins issue upon the defendant's Statement of Defence filed and delivered herein.

2. The plaintiff further says that the traction engine referred to in the plaintiff's Statement of Claim was one used for threshing purposes and was less than eight tons in weight, and was lawfully upon the highway or bridge referred to in the plaintiff's Statement of Claim at the time of the occurrence therein set out.

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134. JOINDER.

The defendant joins issue on the plaintiff's Reply, filed and delivered herein.

135. NEGLIGENCE.

Action by Administratrix under Statute and at Common Law. Statement of Claim.

1. The plaintiff is the administratrix of the estate of ——— deceased, and resides in the ——— of ———, in the Province of Ontario.

2. The said AB. was an engine driver, employed by the defendant company, and on the morning of the ——— of ———, A.D. ———, was driving engine No. ———, attached to a work train, proceeding from ——— towards ———, a Station on the single track ——— Branch of the defendant company's railway. At a point about ——— miles from the said ——— of ———, the said train collided "head on" with a yard engine, which was returning from ———, after being used in pushing a freight train up what is known as the ——— grade.

3. As the result of the said collision, the said ——— was instantly killed.

4. The order of the defendant company controlling the operation of the yard engine when so engaged is as follows:

> "Yard engines at ——— are allowed to push freight "trains up the ——— grade and return to ——— Station "without special orders from the Train Despatcher. Yard "Foreman in charge of yard engine will be held responsible "for protecting the return of yard engine, and for know- "ing such engine has returned before allowing a train or "engine to follow."

5. The Yard Foreman at ———, in charge of the said yard engine under the said order, failed in his obligation to detain the said work train until the said yard engine had returned to ———, and in consequence of such negligence the said accident occurred, and by reason therefor the plaintiff claims to be entitled to damages under the "Workman's Compensation for Injuries Act."

6. The plaintiff, however, further claims that she is entitled to recover against the defendants, damages at common law by reason of the negligence of the defendants in that they did not provide a proper and efficient system to control the operation of the said yard engine, it being grossly negligent on their part to leave the control thereof to the Yard Foreman, whose many duties made it impracticable for him to control the movement of outgoing trains.

7. That under proper and efficient regulations, the said yard engine would have been under the control of the train despatcher, and the orders given with regard to the movements of the said work train would have been given in relation to the movements of the said yard engine, and the said accident under such proper and efficient system could not and would not have happened.

8. That it was further the duty of the defendants at common law to have provided sufficient workmen, so that if the control of the said yard engine was left in charge of any one man, he should not have been permitted to do other work, but that other employees should have been provided in connection with the said work at ———, so that the said Yard Foreman having such control would be in a position to effectively exercise the same, and the plaintiff charges that it was gross negligence on the part of the defendants not to provide such workmen, and they are responsible at common law therefor.

9. The plaintiff further says that the said casualty was caused by the improper and defective system adopted by the defendants in operating the said ——— Branch and their yards at ———, it being essential for the safe operation of said trains on the said branch and in the said yards, and for the safety of the employees thereon, that a proper and modern system of operating and directing the movements of the trains and proper rules and regulations in regard thereto should have been provided.

10. The plaintiff further says that it is a rule of the defendant company that upon foggy days all freight trains shall be operated on what is known as the Block System, and that the day of the said accident was a foggy day within the meaning of the said rule. By reason of the insufficient number of men and the defective system and appliances supplied by the defendant company, it was impossible to put into practice the rule in question, and as a result thereof the said casualty was caused.

The plaintiff further says that the defendants knew or ought to have known of all the acts of negligence aforesaid, and that the deceased was ignorant thereof.

The plaintiff further says that the death of the said A.B. was caused by the failure of the defendants to select proper and competent persons to superintend and direct the workings of their railway, and by their failure to furnish them with adequate material and resources for such work; and that the materials were inadequate and the means and resources were unsuitable to accomplish the work; that is to say, to safely control the movements of the pilot engine from and to ———, having regard to the movements of other trains on the defendants' road operating between said points, and also to safely control the movements of other trains on the defendants' road having regard to the movement of such pilot engine.

11. The plaintiff further says that the said casualty was caused by the negligence of the defendants in not employing competent and experienced men to operate the said station yard of the defendant company.

12. The plaintiff is the widow of the late ———, who was at the time of his death of the age of —— years; she, herself, is the

age of ——— years, and this action is brought on behalf of herself and of the seven children of the said ———, all of whom are under the age of twelve years, and whose names are as follows:

136. DEFENCE TO ABOVE.

Not Guilty by Statute.

1. By Statute, 16 Vic., Chap. 37, Section 2; Also the Railway Act, Revised Statutes of Canada, 1906, Section 306; both public Acts.

The defendants say they are not guilty as in the plaintiff's statement of claim alleged.

2. For a further defence to this action, the defendants deny the several allegations contained in the plaintiff's Statement of Claim in paragraphs ———, and put the plaintiff to the strict proof thereof.

3. So far as the plaintiff's claim is founded upon any alleged right to recover at common law, these defendants say that they are a Corporation operating their railway under the provisions of the various Statutes passed respecting them:

(a) That the Corporation as such cannot be liable for any error in judgment in its employee as to the proper system to be adopted or precautions to be taken.

(b) That the defendants' business in Canada is directed and superintended by a Board of Directors whose headquarters are in London, England, and is carried on by careful, skilled, experienced and competent men, who give their full time and attention thereto.

(c) That for the purpose of carrying on the said business in Canada, they are supplied with all necessary materials and everything required for the proper and efficient maintenance and management of the defendants' railway and business. That the system pursued in the ——— yards and the handling of their trains on the ——— line, as well as the yard engine, were pursued and carried on under the supervision and advice of competent and experienced superintendents, and under clear and concise and explicit orders issued by them; and the work of carrying out the same entrusted to experienced and competent men, who were fully instructed and thoroughly understood the same, which orders were printed and placed in the hands of all employees and fully understood by them, and if carried out, the accident complained of herein could not have happened, and that if any other method should have been adopted as alleged, which the defendants do not admit but deny, the same was not adopted owing to such method not recommending itself to the judgment of such superintendents, upon whose judgment the defendants were bound to rely.

(d) Competent and experienced workmen, who were fully capable of performing the duties assigned to them, were employed by the defendants, and the particular work through which the accident in question occurred was work requiring nothing but the ordinary intelligence of any workman to whom the method of operation had once been pointed out, and no duties other than those pointed out in the order calling upon the engine foreman to protect the engine pushing trains up the ——— line were expected or demanded until the return of the same engine, all of which was well known to the employees, and their attempting to do any other work in the absence of the said engine up the grade, was in direct violation of the company's orders.

(e) That if the said alleged accident was in any way caused by reason of the negligence of a person in the service of the defendants, as alleged by the plaintiff, and which the defendants deny, the same was caused by the act of a fellow servant engaged at the time thereof in a common employment with the deceased, and for any alleged default or negligence of such fellow servant, these defendants are not liable at common law to the plaintiff.

4. So far as the plaintiff's claim is founded upon any alleged right to recover under "The Workmen's Compensation for Injuries Act," the defendants admit paragraphs 2, 3, 4 and 5 of the plaintiff's Statement of Claim, and say that prior to the issuing of the writ, the defendants offered to pay to the plaintiff, widow of the deceased, or her solicitors, the full sum of three years' wages of the deceased, ———, which was refused, and that the said defendants always have been and still are, ready and willing to pay the said sum of three year's wages, and for the sake of peace and to avoid litigation now bring into Court the sum of ——— Dollars and ——— Cents, in full satisfaction of the plaintiff's claim in this action, and say that that amount, together with taxable costs of the plaintiff to date, which they are willing to pay, is sufficient to cover any damages for which, under any circumstances, they might be liable and to satisfy the plaintiff's claim and costs.

5. The defendants further say that the deceased, ——— accepted employment with the defendant company with full knowledge of the work required of him, and with full knowledge of all the risks incident to such employment.

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137. JOINDER OF ISSUE.

The plaintiff says that the amount paid into Court by the defendants is not sufficient to satisfy the plaintiff's claim in full.

The plaintiff joins issue upon the defendants' Statement of Defence.

138. NEGLIGENCE.

Injuries to Workman Causing Death—Claim at Common Law and under the Workmen's Compensation Act.

The plaintiff, M.G., is a widow residing at the City of London, in the County of Middlesex, and the plaintiffs, M.R.G. and R.G.L.G. are infants under the age of twenty-one years and reside with their mother, the said M.G., and the defendants are a corporation incorporated under the laws of the Province of Ontario and have their head office at the City of Toronto, in the County of York.

1. The said M.G. is the widow and the said infants are the children of G.G., late of the Village of Chippawa, in the County of Welland.

2. The defendants at the times hereinafter referred to operated an electric power plant at ———, in the Township of ———, in the County of ———.

3. The said G.G., deceased, at the time of the accident hereinafter referred to and for some time prior thereto, was a workman in the employ of the defendants under a contract and was in receipt of wages for his services.

4. On or about the 18th day of ——— 19—, a number of electric switches, and oil pots in the switch room of the defendants' said power plant blew out, thus scattering the oil in the said pots in the switch compartments and generally throughout the switch room. The oil thus blown out and the oil remaining in the oil pots became carbonated. The said G.G. and other workman were instructed to and did assist in repairing the blown out switches, the said G.G. being directed by the superintendent of the defendants in charge to wipe the oil out of the said compartments. About five o'clock in the morning on the 19th day of ———, 19—, the said G.G. while wiping the northerly compartment of switch number 23 in the said power plant was killed by electricity from said plant. While doing the said work it was necessary for the said G.G. to carry an extension electric light to see the interior of the said compartments.

5. The switches north of said switch number 23 were in operation and were carrying 12,000 volts of electricity at the time the said G.G. met his death.

6. The plaintiffs say that the said injury to and the subsequent death of G.G. was caused by reason of the negligence of the defendants in not disconnecting all switches of or near the said blown out compartments or cutting or disconnecting the cables carrying electricity into the said compartments or the walls thereof, or in making certain that no electricity entered same while the said deceased was engaged as aforesaid.

7. The plaintiffs further say that the said injury to and subsequent death of the deceased was caused by the negligence of the defendants in not cleaning the said carbonated oil from the floor of the switch room before ordering the deceased to clean the said compartments.

8. The plaintiffs further say that the said injury to and subsequent death of the deceased were caused by the negligence of the defendants in not providing and maintaining proper insulating mats, platforms and gloves for the deceased when engaged in the work above referred to.

9. The plaintiffs further say that the said injury was caused by reason of a defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with or intended for or used in the business of the defendants. The said defect arose from or had not been discovered or remedied owing to the negligence of the defendants or some person instructed by them with the duty of seeing that the condition or arrangement of the ways, works, machinery, plant, buildings or premises were proper.

10. The plaintiffs further say that the said injury was caused by the negligence of the defendants in not so constructing the switches that each compartment was properly insulated.

11. The plaintiffs further say that the said injury was caused by the negligence of some person in the service of the defendants who had superintendence intrusted to him while in the exercise of such superintendence.

12. The plaintiffs further say that the said injury was caused by reason of the negligence of H.S. and F.G. or either of them or some person or persons in the service of the defendants to whose orders or directions the said deceased G.G. at the time of the said injury was bound to conform and did conform and such injury resulted from his having so conformed.

13. The plaintiffs further say that the said injury was caused by reason of the acts and omissions of H.S. and F.G., superintendents in the defendants' employ.

14. The plaintiffs further say that the said injury was caused by the obedience of the deceased to particular instructions given by the defendants or by some person or persons delegated with the authority of the defendants in that behalf.

15. The plaintiffs further say that the said injury was caused by the negligence of the defendants in not providing and maintaining a proper and efficient system of inspection of the said switches and power house and power plant generally to ascertain whether there was danger to the workmen and to the deceased in particular before allowing said workmen to be engaged as aforesaid.

16. At the time of his death the said G.G. was about 37 years of age.

17. Prior to the happening of the said accident the said G.G. was capable of earning considerable money and was of valuable assistance to the persons on whose behalf this action is brought.

18. By reason of the said negligence and breach of duty of the defendants and the injuries sustained by the said G.G., and his subsequent death, the persons on whose behalf this action is brought, lost the assistance of the said G.G.

The plaintiffs therefore claim:—

1. $2000 each so far as the defendants ability is governed by the Workmen's Compensation for Injuries Act.
2. $6000 damages so far as the defendants are liable at Common Law.
3. The costs of this action.
4. Such other relief as may be right.

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139. STATEMENT OF DEFENCE.

To Foregoing Claim.

The defendants deny that they were guilty of the negligence alleged in the plaintiff's statement of claim and particulars thereof or of any negligence causing the death of the said G.G. and submit that this action should be dismissed with costs.

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140. NEGLIGENCE.

Claim of Client against Solicitor.

1. The plaintiff has suffered damage from the defendant's negligence in his conduct for the plaintiff, as his solicitor, of business undertaken by the defendant on the plaintiff's retainer.

2. The negligence was in making an application under Rule —, in the case of A.B. (the plaintiff) v. C.D., where the case was one of unliquidated damages and not of debt.

Particulars of damage:—

Taxed costs paid to defendant on dismissal of application $———.

The plaintiff claims $———.

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141. NEGLIGENT DRIVING.

Action by Husband and Wife for Damages for Injury to Wife. Statement of Claim.

1. The plaintiff C.B. is, and was on the ——— day of ——— the wife of the plaintiff A.B.

2. On the ——— day of ——— — a van of the defendant's was being driven in a public street called ——— Street ——— in the

City of Toronto, by one of the servants of the defendant in the course of his employment as such servant.

3. It was then so negligently (*state circumstances where practicable*) driven and managed by the said servant of the defendant, that it was driven with great force against the plaintiff C.B who was then crossing the said street.

4. The right leg of the plaintiff C.B. was thereby broken and she was in consequence obliged to remain in her bedroom for ——— weeks and she suffered much pain.

5. By reasons of the premises, the plaintiff A.B. lost the benefit and comfort of the plaintiff C.B.'s society and her assistance in the management of his house for ——— weeks and was put to an expense of $——— for medical attendance and was made to employ for ——— weeks an additional servant at a cost of $———

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142. NUISANCE BY POLLUTION OF WATER.

1. The plaintiff is the owner (*or* lessee) and occupier of a farm known as ———, through which there runs a river known as ———.

2. The defendant or persons in his employ pollute the water in the said river by passing into the same the refuse of the defendant's dye works, situate higher up the said river.

The plaintiff claims an injunction to restrain the defendant, his servants and agents, from sending from the said dye works into the said river any matter so as to pollute the waters thereof, or to render them unwholesome or unfit for use, to the injury of the plaintiff (*or, as the case may be*).

The plaintiff also claims damages in respect the said nuisance.

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143. NUISANCE BY SMELLS.

The plaintiff has suffered damage from offensive and pestilential smells and vapors caused by the defendant in the plaintiff's dwelling-house, No. ——— Street, ———.

The plaintiff claims:

(1) $———.

(2) An injunction to restrain the defendant from the continuance or repetition of the said injury or the committal of any injury of a like kind in respect of the same property.

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144. OVERHOLDING TENANT.

Action against for Double Rent.

1. The defendant until the ——— day of ———, 19—, was tenant to the plaintiff of a messuage and land as tenant from year to year at a yearly rent of $———, payable quarterly.

2. The defendant on the ——— day of ———, 19—, duly gave to the plaintiff notice of his intention to quit the said premises at a time mentioned in such notice, namely, on the ——— day of ———, 19—.

3. The defendant did not at the said time mentioned in such notice deliver up possession of the said messuage and land to the plaintiff, but continued in possession thereof until the ——— day of ———, 19—.

4. Double rent of the said messuage and land during the said period between the ——— day of ———, 19—, (*time named in notice*) and the ——— day of ———, 19—, (*time of delivery of possession*) amounts to the sum of $———, which said sum is still wholly due to the plaintiff and unpaid.

The plaintiff claims $——— and costs of this action.

(*If the defendant is still in possession when the action is brought, a claim for delivery of possession should be added*).

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145. OVERHOLDING TENANT.

Action against, for Double Value.

1. (*State tenancy and its termination as in previous form.*)

2. After the ——— day of ———, 19—, (*date when the tenancy terminated*) namely, on the ——— day of ———, 19—, the plaintiff as and being the defendant's landlord as aforesaid and the person to whom the reversion of the said messuage and land then belonged (by his agent thereto lawfully authorized) made a demand upon and gave notice in writing to the defendant for delivery to the plaintiff of the possession of the said messuage and land.

3. The defendant did not in accordance with such demand and notice deliver possession of the said messuage and land to the plaintiff, but wilfully held over the same and kept the plaintiff then being entitled to the possession of the land out of the possession thereof (until the ——— day of ———, 19—.)

4. Double the yearly value of such messuage and land for the period from the (*date of termination of tenancy*) until the said (*date of delivery*), amounts to the sum of $———, which said sum is still wholly due to the plaintiff and unpaid.

The plaintiff claims $——— and costs.

(*Or where possession has not been delivered up before action.*)

4. Double the yearly value of such messuage and land amounts to the sum of $———, and the defendant has not paid such double value nor any part thereof for the time he has retained possession of the said premises since the termination of the said tenancy.

The plaintiff claims:

1. The double value of the said premises from the termination of the said tenancy until the plaintiff shall recover possession of the premises.

2. Delivery of possession.

3. His costs of this action.

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146. PARTNERSHIP.

Action for Dissolution.

1. The plaintiff and the defendant are and have been since the ——— day of ——— 19— partners in the trade or business of ——— under articles of partnership dated, &c., and made between &c. (*or* under a verbal agreement made, &c.,) which partnership was to continue for ——— years (*or* for an indefinite time).

2. Since the month of ——— 19— or thereabouts until the present time the said C.D. has greatly misconducted himself in the said business by removing the books of the partnership from the office of the firm, and denying the plaintiff or debarring him from access thereto, by discharging the clerks or servants of the said firm and engaging others in his own interest in their stead, and by making false entries in the said books or improperly keeping the same.

3. The said defendant has also used the name of the firm for his own private purposes, and has applied the moneys of the partnership to his own individual use.

4. There is nothing in the said articles or agreement of partnership to justify such conduct on the part of the defendant.

5. The plaintiff has made frequent applications to the said defendant to desist from such conduct and to act in accordance with the said agreement and with his duty as a partner, but without effect.

6. The plaintiff on the ——— day of ——— 19— gave notice to the said defendant that the said partnership would be dissolved from the ——— day of ——— 19—.

The plaintiff therefore claims:

1. That the said partnership may be dissolved, and that the accounts of the said business may be taken from the commencement thereof, and the affairs thereof wound up and adjusted.

2. The costs of this action.

3. Such further or other relief as the nature of the case may require.

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147. PATENT.

Action for Infringement.

1. Before and at the time of the making of the letters patent next hereinafter mentioned the plaintiffs had discovered and were

the sole, true and first inventors of the improvements in machinery for the manufacture of ——— in such letters patent mentioned; and no other person before or at such time made, used, exercised or vended the said improvements or invention.

2. By letters patent issued pursuant to The Patent Act of the Dominion of Canada and bearing date the ——— day of ——— 19— and numbered ———, His Majesty granted to the plaintiffs the exclusive right, privilege and liberty in and for the Dominion of Canada of making, constructing and selling to others to be used a certain invention of improvements in machinery for the manufacture of ——— called and known as "———" and described in the said letters patent as follows: (*here recite the description,*) and the said letters patent are now in full force and effect in the said Dominion of Canada.

3. The said invention was and is novel, useful and valuable; and from the day of the date of the said letters patent the plaintiffs have applied the said invention with great success, and have manufactured large quantities of ——— by means of machinery constructed according to the said invention, and have derived great profit from the manufacture of such ———.

4. The plaintiffs have never permitted any machines to be constructed according to the said invention for any person except for themselves; and they have never granted any license to use the said invention to any person whomsoever.

5. In the month of ——— 19— the plaintiffs discovered for the first time, as the fact is, that the defendant had caused to be constructed for himself and erected at ——— several machines constructed according to the plaintiffs' said invention, or upon the principle of, or only colourably differing from the plaintiffs' said invention, and that by means of such machines the defendant has been manufacturing large quantities of ———.

6. The defendant has made and is now making such goods as aforesaid, and is selling the same to the great prejudice and damage of the plaintiffs, and he has derived and is now deriving large gains and profits therefrom.

7. The defendant has sold the goods so manufactured by him by means of such machines as aforesaid at a great reduction on the price at which they had been sold previously by the plaintiffs; and the plaintiffs have been compelled to reduce their prices for such goods to the great loss and damage of the plaintiffs.

8. The plaintiffs have frequently applied to the defendant and requested him to discontinue the use of their said invention and the infringement of their said patent, and to come to an account with the plaintiffs for the profits made by the defendant by such use and infringement, but the defendant has refused to comply with such requests, and threatens and intends to continue and will

continue the acts complained of unless restrained by injunction of this Honourable Court.

The plaintiffs therefore claim:

1. That an account may be taken of the profits made by the defendant from the sale of ——— manufactured by him by means of machines constructed according to the plaintiffs' said invention, or constructed upon the principle of, or only colourably differing from the said invention; and that the defendant may be ordered to pay to the plaintiffs what, upon taking such accounts, shall be found due from him.

2. That the amount of the damages sustained by the plaintiffs by reason of the defendant infringing their said letters patent, beyond the amount which, upon taking the account aforesaid, shall appear to be the profits made by the defendant as aforesaid, may be ascertained by and under the direction of this Honourable Court, and that the defendant may be ordered to pay such amount to the plaintiffs.

3. That the defendant, his servants, agents and workmen, may be restrained by the order and injunction of this Honourable Court from making, using or selling machines for the manufacture of ——— constructed according to, or upon the principle of, or upon any principle only colourably differing from the plaintiffs' said invention; and from selling ——— manufactured by means of any such machine, except such ——— as shall have been manufactured by the plaintiffs, or some person duly licensed by them.

4. The costs of this action.

5. Such further or other relief as may be just.

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148. PENNING BACK WATER

On Plaintiff's Land.

1. The plaintiff was at the times hereinafter mentioned and still is the owner of a parcel of land described as follows: (*describe the land and position of stream flowing by plaintiff's land.*)

2. The plaintiff then was and still is entitled to have the said stream flow by and away from the said land without obstruction or hindrance.

3. The defendant in the month of ——— 19—, and thenceforth until (*state how long obstruction continued*), obstructed the flow of the said stream at a point below the lands owned by the plaintiff and above described by erecting a dam or wall in the bed of the said stream, and thereby forced back the waters of the said river so that it was hindered and prevented from flowing

past and away from the said lands of the plaintiff, as it of right ought to have done and otherwise would have done.

4. By reason of the premises, the water of the said stream on the ——— day of ——— 19— overflowed and flooded the plaintiff's said land, and remained thereon for (*state length of time*), and spoilt the crops growing thereon, and the plaintiff was deprived of the use of the said land, and was put to an expense of $——— in removing the waters therefrom, and the said land was and is much diminished in value.

(*If an injunction is claimed state facts in support thereof.*)

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149. POSSESSION.

Action for Recovery of.

1. A.B., late of ———, by his last will duly executed dated the ——— day of ——— 19— devised Lot ——— in the ——— Concession of the Township of ——— in the County of ——— to the plaintiff and appointed the said plaintiff sole executor of the said will.

2. The said A.B. died on the ——— day of ——— 19— and the plaintiff proved the said will in the Surrogate Court of the County of ——— on the ——— day of ——— 19—.

3. The said A.B. was at the time of his death seised in fee of the said lands.

4. The defendant was residing with the said A.B. at the time of A.B.'s death, and immediately after the death of the said A.B. entered into possession of the said lands and has refused to give them up to the plaintiff.

The plaintiff therefore claims:

1. Possession of the said lands.
2. $——— for mesne profits.
3. The costs of this action.

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150. POSSESSION.

To Recover Possession Upon a Forfeiture for Breach of Covenant to Repair.

1. On the ——— of ———, 19—, the plaintiff, by deed, let to the defendant a house and premises, No. ———, ——— Street, ———, for a term of ——— years, from the ——— of ———, 19—, at the yearly rent of $———, payable quarterly on ———.

2. By the said deed the defendant covenanted to pay the said rent to the plaintiff at the times aforesaid and to keep the said house and premises in good and tenantable repair (*or as the case may be.*)

3. The said deed also contained a clause of re-entry, entitling the plaintiff to re-enter upon said house and premises, in case the

rent thereby reserved, whether legally demanded or not, should be in arrear for 21 days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the ——— of ———, 19—, a quarter's rent became due, and on the ——— of ———, 19—, the same had been in arrears for 21 days; and the said rent is still due and unpaid.

5. On the ——— of ———, 19—, the house and premises were not, nor are they now, in good or tenantable repair, and the plaintiff as such lessor thereupon (on the said last-mentioned day) served on the defendant a notice specifying the particular breach of the aforesaid covenant complained of, and requiring the defendant to remedy such breach, and requiring him to make compensation in money for such breach.

6. A reasonable time for the defendant to have remedied such breach, which was capable of remedy, and to have made reasonable compensation in money to the satisfaction of the plaintiff for the said breach, elapsed before this action, but the defendant has not remedied the said breach, nor has he made such or any compensation for the said breach.

7. The particulars of the breach to repair exceed three folios, and were delivered to the defendant's solicitor on the ——— of ———, 19— (*or* as follows).

The plaintiff claims:

(1) Possession of the said house and premises.

(2) $——— for the said arrears of rent.

(3) $——— damages for the said breach of covenant to repair.

(4) $——— for mesne profits.

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151. POSSESSION.

Action by Landlord to Recover Possession—Tenancy Determined.

1. On the ——— day of ———, the plaintiff let to the defendant a house, No. ———, ——— Street, in the City of ———, as tenant from year to year, at the yearly rent of $420, payable quarterly, the tenancy to commence on the ——— day of ——— (*or* for ——— years from the ——— day of ———, 19—, under a lease by deed dated ———).

2. The defendant took possession of the said house and continued tenant thereof until the ——— day of ——— last (when the tenancy determined by a notice duly given, *or* when the said term expired by effluxion of time).

3. (*Where tenancy determined by notice.*) The defendant has disregarded the said notice and still retains posession of the house.

The plaintiff claims:

(1) Possession of the house.

(2) $——— for mesne profits from the ——— day of ———.

(3) His costs of this action.

152. DEFENCE AND COUNTERCLAIM.

The defence and counterclaim of above-named C.D.

1. Before the determination of the tenancy mentioned in the statement of claim, the plaintiff A.B., by writing dated the ——— day of ———, and signed by him, agreed to grant to the defendant C.D. a lease of the house mentioned in the statement of claim, at the yearly rent of $———, for the term of 21 years, commencing from the ——— day of ———, when the defendant C.D.'s tenancy from year to year determined, and the defendant has since that date been and still is in possession of the house under the said agreement.

2. By way of counterclaim, the defendant claims to have the agreement specifically performed, and to have a lease granted to him accordingly.

153. QUIET ENJOYMENT.

Breach of Covenant for.

1. By an indenture of lease under seal dated the ——— day of ———, 19—, (made pursuant to the Short Forms of Leases Act) the defendant demised to the plaintiff a certain dwelling-house, messuage of tenement known as *(describing it)* for the term of ——— years, subject to the covenants and stipulations therein contained.

2. The defendant thereby covenanted with the plaintiff that the plaintiff paying the rent thereby reserved and performing the covenants in said lease, on his part contained should peaceably possess and enjoy the said demised premises for the said term without any interruption or disturbance from the lessor, his heirs, executors, administrators or assigns or any other person or persons lawfully claiming by, from, or under him them or any of them.

3. The defendant at the time of the making of the said lease had not power to demise the said demised premises to the plaintiff and by reason thereof on the ——— day of ———, 19—, one A.B., lawfully claiming the said demised premises (*state the ground of the claim of A.B.*) entered thereon and evicted the plaintiff.

4. By reason of such eviction the plaintiff lost the use and occupation of the said demised premises and the profits of the business which he then was carrying on upon the said premises, and

was put to great expense in providing himself with other premises and in removing his goods thereto.

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154. RAILWAYS.

Action for Injuries by Passenger.

Statement of Claim.

The plaintiff has suffered damage from the defendant's negligence in carrying the plaintiff as a passenger by railway from ——— to ———, causing personal injuries to the plaintiff in a collision near ——— on the ——— 19—.

The plaintiff claims $———.

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155. RAILWAYS.

Injuries to Workman through Collision.

Statement of Claim.

1. The plaintiff is by trade a hat maker and resides in the ——— of ———, and the defendant company own and operate a line of railway extending through the Province of Ontario and other parts of Canada, known as the ——— Railway Company.

2. The plaintiff made application to the defendant company for employment, and was given such as a fireman.

3. On the ——— day of ———, 19—, in the discharge of his duty as such fireman, the plaintiff left ——— about half-past two in the afternoon for ———, upon an engine of the defendant company, and continued in the discharge of his duty as an assistant fireman until a collision occurred about half a mile east of ——— Station, on the line of said defendant company.

4. The train upon which the plaintiff was working, and which was a freight train, collided with or overtook another freight train of the defendant company, proceeding eastward about half a mile east of the said ——— Station, and in such collision the plaintiff was caught between the tender and cab of the engine in which he was engaged and sustained injuries to his spine, the walls of his chest and abdomen and to several of his internal organs.

5. The said injuries were caused by the negligence of the defendant company or its servants or agents, and the negligence of which the plaintiff complains is as follows:

(1) The agent or operator of the defendant company at the first station west of ——— failed to detain the train upon which the plaintiff was engaged until after the trained with which it collided had left ——— Station or had gone a sufficient distance to avoid the collision.

(2) The agent, operator or other proper servant of the defendant company at ——— Station failed and neglected to display

signals which would have stopped the train upon which the plaintiff was engaged at ——— and averted said collision.

(3) The conductor or brakeman engaged upon the train in advance of the one upon which the plaintiff was engaged failed to display proper signals for stopping the train upon which the plaintiff was engaged.

6. On account of the aforesaid injuries the plaintiff was confined to a hospital in the City of ——— for four weeks, has since been and still is unable to work or undertake any employment, has suffered great pain and loss of health, is permanently injured in health, and has been put to expense for medical attendance and medical advice.

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156. DEFENCE TO ABOVE.

1. The defendants deny the allegations contained in the plaintiff's Statement of Claim, and put him to the strict proof thereof.

2. The plaintiff, on or about the ——— of ———, ———, applied to the Locomotive Power Department of the defendant company at ——— for employment as a fireman, when it was fully explained to him that before his application could be accepted or employment given him, it would be necessary for him at his own expense and without charge to the company, to qualify himself for the duties of a fireman, all of which was fully understood and agreed to.

3. In pursuance of such application and understanding, the plaintiff entered into a written agreement, bearing date the ——— of ———, ———, with the defendants, to which agreement the defendants crave leave to refer at the trial hereof, and which is in part as follows:—

4. That the said ———, if upon the said engine, as alleged in the Statement of Claim, was there as a student fireman, in pursuance of and upon the understanding and conditions set out in the said agreement or application for employment, and on no other conditions whatsoever.

5. That the said train was not a passenger train but an ordinary freight train, operated in the ordinary way on the defendants' line of railway, on which no passenger was allowed by the defendants to travel, and that the plaintiff would not have been allowed to travel thereon, except upon the terms of the agreement herein set out, under which agreement he took the risk.

The defendants submit that for the above reasons, amongst others, this action should be dismissed with costs.

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157. REPLY TO ABOVE.

1. The plaintiff joins issue with the defendant company upon the Statement of Defence filed herein.

2. The plaintiff does not admit that he executed the application for employment set out in the Statement of Claim, and says that if he did he was not fully advised or informed as to the nature and effect thereof, and did not appreciate or understand that the execution thereof would relieve the company from liability for damages sustained owing to negligence of the company or its servants, and further says that there was no consideration for the alleged release of liability therein contained and that the said contract is unreasonable, improvident and contrary to public policy, and is void and of no effect.

3. The plaintiff further says that in any event the said agreement, if executed by him, does not relieve the company from liability to the plaintiff for the injuries sustained by him as set out in the Statement of Claim.

4. The plaintiff says that under the provisions of "The Railway Act" the defendant company were, under the circumstances, bound to carry the plaintiff with due care and diligence, but failed to do so, and on account of said failure the plaintiff sustained the injuries complained of.

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158. RAILWAYS.

Injuries to Brakeman—Defective Construction—Non-compliance with Railway Act.

Statement of Claim.

1. The plaintiff resides at the Town of ———, and the defendants are a railway company duly incorporated by the laws of the Dominion of Canada, and operating a railway within the Province of Ontario.

2. On the ——— day of ———, 19—, the plaintiff was employed by the said defendant company as a brakeman, and was performing his duties as such on a train of the defendant company at ———, under the instructions of the conductor in charge of the said train, and in obedience to said instructions and in the performance of his duties as aforesaid it became necessary for him to couple the locomotive and tender of the said train to a certain freight car attached to and forming a part of said train. In attempting to carry out this duty, it became necessary for him to adjust and correct the coupling apparatus on said car, which was improperly constructed and defective and out of order, and while the plaintiff was so engaged the engineer in charge of the said locomotive negligently and wrongfully caused or allowed the engine to move violently against and collide with the car, whereby the plaintiff's arm was caught and taken off below the elbow.

3. The coupling appliance attached to the said car was improperly constructed, was broken and defective, and in such a condi-

tion as not to act automatically by impact, and thereby rendered it necessary for the plaintiff to go between the end of the said car and the tender of the said locomotive for the purpose of coupling them, and the defendants are guilty of negligence in using said coupling appliance and allowing it to become and remain in said condition, whereby the said plaintiff received the injury as aforesaid.

4. The drive-wheel brake on the said locomotive was defective and was not operating properly at the time the plaintiff received the said injury as aforesaid and prior thereto to the knowledge of defendants, and the said defendants were negligent in allowing the said brake to become and remain so defective, and by reason thereof the said plaintiff received the said injury as aforesaid.

5. The said injuries to the plaintiff were caused by the negligence of the defendant company's engineer having charge of the said locomotive as aforesaid and by the improper construction and defect in the condition and arrangement of the said coupling appliance and brake.

6. The said defect in the condition and arrangement of the said coupling appliance and brake arose from or had not on the ——— day of ——— last been discovered or remedied owing to the negligence of the defendant company or of their officer or servant or other person or persons entrusted by the said company with the duty of seeing that the condition and arrangement of the said coupling appliance and brake was proper.

7. The said coupler and the said brake were not in accordance with the provisions of The Railway Act, respecting such apparatus and appliances, and the defendants were guilty of negligence in not complying with said provisions, whereby the plaintiff was injured as aforesaid.

8. Due notice in writing of the said injury was given to the defendant company by the said plaintiff on the ——— day of January, 19—.

9. By reason of said injury the plaintiff has suffered severe pain and has been permanently disabled and has been put to great expense for medical attendance, nursing, medicines, and in other ways, and has suffered loss and damage.

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159. STATEMENT OF DEFENCE TO FOREGOING.

1. The defendants admit the statements contained in paragraphs one and two of the Statement of Claim.

2. The defendants admit that as a result of the accident mentioned in paragraph two of the Statement of Claim the plaintiff suffered damages.

3. The defendants as to the whole of the claim of the plaintiff bring into Court one thousand dollars, and say that the same is enough to satisfy the plaintiff's claims.

160. RAILWAYS.

Escape of Fire.—Defective Engines.

Statement of Claim.

1. The plaintiff is owner of the whole of Lot Number ——— in the ——— Concession of the Township of ——— in the County of ——— except that portion of said lot heretofore sold by the plaintiff to the defendant company over which the lines of railway operated by the defendant company runs.

2. On or about the ——— day of July, 19—, and at other times in the months of July and August, 19—, the plaintiff's cordwood, growing timber, surface, soil and fences on said lot were damaged and destroyed by fires.

3. The said fires were caused by sparks, hot ashes or fire which the defendant company negligently allowed to escape from engines passing on the defendant company's railway and to set fire to brushwood, dry grass, weeds, rotten logs and stumps, light wood and other combustible materials which the defendant company had negligently allowed to accumulate and remain on the lands of the defendant company adjacent to their line of railway on said lot in such a situation as readily to ignite from sparks, hot ashes and fire, and the fires spread thence to the plaintiff's lands and destroyed their property aforesaid.

4. The weather in the months of July and August, 19—, was very dry and little or no rain had fallen for some time before the said fires and during the said months; and fires occasioned by sparks, hot ashes and fire from the defendant company's engines were frequent during the summer of 19— along their line of railway in that section of the country.

5. The defendant company were guilty of negligence in thus allowing, during a dry season, brushwood, dry grass, weeds, rotten logs and stumps, light wood and other combustible materials to accumulate and remain on their lands adjacent to the railway track as aforesaid.

6. The defendant company were guilty of negligence in omitting and neglecting to use ordinary and usual care, appliances and management to prevent the escape of sparks, hot ashes and fire from their engines running on their said railway, and in allowing their said engines to be and remain out of repair, whereby sparks, hot ashes and fire escaped and set fire to the plaintiff's property, and the plaintiff suffered great damage in consequence thereof.

7. The defendant company were guilty of negligence also in not preventing the spread of fire upon their lands to be plaintiff's lands and in allowing fire to spread from their land to and upon the plaintiff's land, whereby the plaintiff suffered great loss and damage.

161. DEFENCE TO THE FOREGOING.

1. The defendant company say they are not guilty by Statute. (*set forth Statutes*).

Note.—See Rule 287 as to the plea of Not Guilty by Statute.

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162. RAILWAYS.

Injuries from a Railway Accident.

1. The plaintiff is a ——— residing at ———.

2. The defendants are carriers of passengers upon a railway from ——— to ——— for reward.

3. On the ——— day of ———, 19—, the plaintiff was received by the defendants as a passenger, to be by them safely and securely carried upon their railway from ——— to ——— for such reward as aforesaid.

4. The defendants did not safely and securely carry the plaintiff from ——— to ———, but so negligently and unskilfully conducted themselves in carrying the plaintiff on the journey aforesaid, and in managing the said railway and carriage train in which the plaintiff was then being carried by the defendants, that the said carriage train came into violent collision with an engine at ———, and the car in which the plaintiff was then being carried was wrecked and shattered.

5. The plaintiff was thereby thrown forward with great violence, and was struck on the head, and his legs were jammed between the debris of the said car, and his spine and brain were injured, and his whole nervous system received a severe shock.

6. The plaintiff has in consequence suffered great pain and is permanently injured, and has been put to great expense (*or* has incurred liability) for medical attendance, nursing and otherwise, and for hotel and lodging accommodation, and extra food and nourishment, and will be put to further like expenses in endeavoring to cure himself of his said injuries, and has been and is still prevented from pursuing his occupation, and has lost and will lose the salary which he otherwise would have earned.

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163. RAILWAYS.

Action for Lost Baggage.

The plaintiff on the ——— day of ———, 19—, was received by the defendants as a passenger for the purpose of being carried with his trunk by train on the defendants' railway from Toronto to London, for reward to the defendants.

2. The defendants thereupon received and took charge of the said trunk, which contained the plaintiff's samples, and placed it in their baggage car at Toronto in the train in which the plaintiff was about to travel, for the purpose of its being carried to London.

3. The defendants did not carry the said trunk to London, nor did they deliver it to the plaintiff on his arrival there, or within a reasonable time thereafter, or at all.

4. The defendants have either lost or retained the said trunk, whereby the plaintiff has been and still is deprived of the same and its contents, and has suffered great inconvenience and has incurred expense in endeavoring to recover possession thereof.

The plaintiff therefore claims $——— damages, &c.

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164. REDEMPTION.

1. The plaintiff is mortgagor of lands, of which defendant is mortgagee.

2. The following are the particulars of the mortgage:

(*If the plaintiff's title is derivative, state shortly the deeds under which he claims.*)

(*If the defendant is mortgagee in possession add*:)

3. The defendant has taken possession (*or* has received the rents) of the mortgaged property.

The plaintiff claims to redeem the said premises, and to have the same reconveyed to him (and to have possession thereof).

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165. DEFENCES TO ACTIONS FOR REDEMPTION.

1. The plaintiff's right to redeem is barred by the Statute of Limitations.

2. The plaintiff assigned all interest in the property of A.B.

3. The defendant by deed dated ——— day of ——— assigned all his interest in the mortgage debt and property comprised in the mortgage to A.B.

4. The defendant never took possession of the mortgaged property, or received the rents thereof.

(*If the defendant admits possession for a time only, he should state the time, and deny possession beyond what he admits.*)

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166. REDEMPTION.

Action to Declare a Deed which is Absolute in Form to be a Mortgage, and for Redemption.

1. For several years prior to and at the date of the indenture of bargain and sale next hereinafter mentioned the plaintiff was seised in fee simple of Lot Number One in the First Concession of the Township of ——— in the County of ———.

2. Shortly before the date of the said indenture the plaintiff applied to the said defendant to advance to him the sum of $——— on the security of the said land, and the said defendant agreed to advance the said sum of $———, and it was agreed between

the plaintiff and the defendant that the plaintiff should convey the said land to the defendant as security for the repayment of the said sum of $——— with interest thereon at the rate of six per centum per annum.

3. In pursuance of the said agreement the said defendant on the ——— day of ———, 19—, paid to the plaintiff the said sum of $———, and the plaintiff thereupon by indenture dated and executed on the said last-mentioned date conveyed the said land to the said defendant absolutely in fee simple.

4. Although the said indenture was absolute in form it was expressly understood and agreed between the plaintiff and the defendant that it should stand only as security for the repayment of the said sum of $——— and interest thereon from the date of the said indenture, and that upon such repayment the said defendant should reconvey the said land to the plaintiff free from all incumbrances.

5. The plaintiff has since the date of the said indenture continuously been and now is in possession and actual occupation of the said land, and he has dealt with and used the same in all respects as absolute owner thereof.

6. The plaintiff has paid divers sums of money to the said defendant on account of the said sum of $——— and interest, and there is now due in respect thereof to the said defendant the sum of $——— or thereabouts.

7. The said defendant professes and pretends that the said indenture was not intended merely as security, and he claims or pretends to claim an absolute title to the said land thereunder.

8. The plaintiff before action brought duly tendered to the defendant the sum of $———, being the balance due to the defendant in respect of the said loan and interest thereon, and at the same time duly tendered to the defendant for execution a reconveyance of the said land, but the defendant refused to accept the said money or to execute the said reconveyance.

The plaintiff therefore claims:

(1) That it may be declared that the indenture hereinbefore mentioned, though absolute in form, was intended by way of security only for the repayment of the sum of $——— and interest thereon, and that the plaintiff is entitled to redeem the said land on payment of the amount due in respect of the said sum and interest.

(2) That the said defendant may be ordered to reconvey the said land, free and clear of all encumbrances created by him, and to deliver up all deeds and writings in his custody or power relating thereto to the plaintiff, or to whom he may appoint.

(3) The costs of this action.

(4) Such further or other relief as may be just.

167. REPAIR.

Statement of Claim for Breach of Covenant to Repair.

1. By a covenant contained in a lease under seal from the plaintiff to the defendant, dated the ——— day of ———, 19—, of a house, being, etc., for ——— years from the ——— day of ———, 19—, the defendant covenanted to keep the premises in such repair and condition as therein mentioned.

2. The premises were, during the term, out of such repair as was required by the covenant.

3. They were yielded up out of such repair at the expiration of the term.

Particulars of dilapidations were delivered to the defendant's solicitor on the ——— day of ———, 19—, and exceeded three folios.

The plaintiff claims $——— damages.

168. RENT.

Statement of Claim For Rent Under a Covenant in a Lease.

The plaintiff's claim is for rent due under a covenant contained in a lease, dated the ——— day of ———, 19—, of a house and land called ———, at ———, for ——— years, from the ——— of ———, 19—, whereby the defendant covenanted with the plaintiff to pay him rent for the said premises during the said term at the rate of $——— a year, by equal quarterly payments, on the ——— (*or, as the case may be.*)

169. CLAIM FOR RENT AND ROYALTY.

And for Breach of Covenant.

1. By a lease under seal from the plaintiff and A.B. to J.S., dated the ———, 19—, of the ——— colliery, in the county of ———, for ——— years from the ——— day of ———, J.S. covenanted with the plaintiff and A.B. as follows:—

(1) To pay a yearly minimum or dead rent of $———, payable by instalments on the usual quarter day, and a yearly rent or royalty of $——— per foot of thickness for every statute acre surface measure of coal worked or gotten during the time after the first 150 feet.

(2) To work and get the coal in a usual and miner-like manner.

2. On November 1, 19—, A.B. died.

3. On November 7, 19—, J.S. assigned to the defendant.

4. $300 is now due by the defendant for dead rent, and $174 for royalties.

5. The defendant has worked the mine, but not in a usual or miner-like manner. He has improperly taken coal from the main

engine dip, and neglected to leave proper pillars and supports in the dip and headings, so that the walls of the mine have fallen in, and the distant parts of the mine have been closed. In July, 19—, the defendant negligently allowed a fire to break out in the mine, and improperly flooded the mine with water.

The plaintiff claims:—

(1) $——— for rent and royalties, and interest until payment or judgment; and

(2) $———damages for the defendant's negligence and breach of covenant.

170. REPLEVIN.

1. On the ——— day of ———, 19—, the defendant wrongfully seized the following goods of the plaintiff (*enumerate them*) in his house (*or* field, *describe the premises*) and took the same away and deprived the plaintiff of the use thereof, and unjustly detained the same from him, whereby the plaintiff has suffered damage.

171. DEFENCE TO FOREGOING.

Damage Feasant.

1. On the ——— day of ———, 19—, the defendant was in occupation of a certain field as tenant to J.H., and the said cattle were wrongfully straying in the said field and doing damage there, wherefore the defendant distrained them in the said field.

172. DEFENCE.

Rent in Arrear.

1. The plaintiff held, and still holds, the said premises as tenant to one J.S. at a yearly rental of $———, payable quarterly.

2. On the ——— day of ———, 19—, $——— of the said rent was and the said amount still is due and in arrear from the plaintiff to the said J.S.

3. On the said ———day of ———, 19—, the said J.S. appointed the defendant his bailiff to distrain on the goods upon the said premises for the said arrears of rent and the defendant accordingly took the goods mentioned in the plaintiff's statement of claim as a distress for the said rent.

173. RETURNING OFFICER.

Action Against, for Preventing Plaintiff from Voting.

1. The plaintiff and the defendant both reside in the Township of ———, which forms part of the Electoral District of ——— as constituted for purposes of representation in the House of Commons of Canada.

2. On the ——— day of ———, 19—, and the ——— day of ———, 19—, an election was, pursuant to the writ of His Majesty the King in that behalf, holden in and for the said Electoral District of ——— for choosing a member to serve in the House of Commons aforesaid for the said Electoral District, the said ——— day of ———, 19—, being the day of the nomination of candidates and the said ——— day of ———, 19—, being the polling day at the said election.

3. At the said election the above-named defendant was the Deputy Returning Officer for Polling Subdivision Number ——— in the said Electoral District.

4. The plaintiff at the time of the holding of the said election was a person whose name was duly registered on the list of voters for the said Electoral District in force on the said polling day, and was a person entitled to vote at the said election.

5. The name of the plaintiff was on the list of voters at the said election for the said Polling Subdivision Number ——— at the polling station of which the said defendant was Deputy Returning Officer as aforesaid.

6. On the said ——— day of ———, 19—, and during the hours appointed by law for the polling of votes and while the poll at the polling station aforesaid was open for the reception of votes at the said election the plaintiff entered the room where the said poll was held and duly presented himself before the defendant as such Deputy Returning Officer as aforesaid for the purpose of voting at the said election, and was ready and offered to give his vote at the said election, and then and there demanded from the said defendant as such Deputy Returning Officer at the said polling station a ballot paper for the purpose of giving his vote at the said election, and the defendant as such Deputy Returning Officer as aforesaid was then and there requested to receive and allow the vote of the plaintiff at the said election, but the said defendant, although he was then personally well acquainted with the plaintiff and had full knowledge of all the premises, in wilful violation of his duty as such Deputy Returning Officer and disregarding the obligations imposed upon him as such officer by the statutes in that behalf, but contriving and falsely and maliciously intending to damnify the plaintiff in this behalf and wholly to hinder and disappoint him of his right and privilege in the premises, did then and there wrongfully and unlawfully hinder and prevent the plaintiff from giving his vote at the said election, and did absolutely refuse to give to the plaintiff a ballot paper which he might mark and deposit as his vote at the said election, or to administer to the said plaintiff the oath of qualification as a voter at the said election prescribed by the statutes in that behalf,

or to permit the plaintiff to give his vote at the said election, and did not receive or allow the vote of the plaintiff at the said election.

7. And the plaintiff avers that he has been injured and sustained damage in the premises.

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174. **SALE OF GOODS.**

Breach of Warranty.

1. On the ——— of ———, 19—, the defendant sold to the plaintiff for the price or sum of $———, which the plaintiff then paid, an electric motor, and at the time of such sale the defendant warranted that it was then complete and in good working order.

2. The said electric motor was not then complete nor was it in good working order.

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175. **SALE OF GOODS.**

Buyer Against Seller of Goods for Not Delivering.

1. The plaintiff has suffered damage by breach of contract for sale and delivery by the defendant to the plaintiff of 100 tons of pig iron at $——— per ton, to be delivered on rail at ——— on the ———.

2. The defendant did not deliver any (*or* ——— tons, *as the case may be*) of the said iron.

Particulars of damage:

Loss of profit at $——— per ton on 100 tons, $———.

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176. **SALE OF GOODS.**

Buyer Against Seller, for Delivering Them Inferior to Contract.

1. The plaintiff has suffered damage by breach of contract between the plaintiff and the defendant for sale and delivery of 100 sacks of flour known as seconds at $——— per sack.

2. 80 sacks delivered were inferior to seconds, and 20 sacks were not delivered.

Particulars of damage:

80 sacks at $——— .....$

20 sacks at $——— .....$

$———

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177. **SALE OF GOODS.**

Delivery to Carrier.

1. The plaintiff is a manufacturer of lumber and shingles in the County of ——— and the defendants are lumber merchants at ——— in the County of ———.

2. On the ——— day of ———, 19—, the defendants bought from the plaintiff and the plaintiff sold to the defendants a large

quantity of shingles to wit: (*here set out particulars*) to be paid for at one and two months from said date.

3. The said shingles were delivered to the defendants over the rail of the vessel "Canada" at ——— aforesaid on or about the ———day of ———, 19—, but the defendants have not paid for the same.

4. The said shingles were for convenience of shipping shipped with other shingles belonging to one C.D. of ———, in the name of the said C.D. as consignee, and all the said shingles were insured in the name of the said C.D., and the same were so shipped and insured in his name as representing the defendants as to their portion and himself as to his portion, and the same were so shipped and insured by and with the knowledge and consent of the defendants and their agent the carrier aforesaid, who accepted the same on behalf of the defendants and agreed to deliver the same to the defendants.

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178. DEFENCE TO FOREGOING.

1. The defendants admit the statements contained in the 1st paragraph of the statement of claim.

2. The defendants deny that they bought from the plaintiff and that the plaintiff sold and delivered to the defendants the quantity of shingles mentioned in the 2nd paragraph of the statement of claim or any other quantity of shingles.

3. The defendants further deny that the said shingles or any other shingles were delivered to the defendants over the rail of the vessel "Canada," as alleged in the 3rd paragraph of the statement of claim.

4. The defendants further say that there was no bargain and sale or sale and delivery of shingles from the plaintiff to the defendants as alleged in the statement of claim, and the defendants deny that they are indebted to the plaintiff in any sum whatever in respect of any such purchase.

5. The defendants further say that there was no sale or delivery of any shingles or any acceptance of any shingles by the defendants or any payment of any price of shingles or by way of earnest money in respect of any shingles, nor was there any memorandum in writing of any agreement between the plaintiff and the defendants in reference to any sale of shingles, and the defendants rely on the provisions of the 17th section of the statute commonly known as the Statute of Frauds.

6. The defendants further say that the plaintiff did not ship for them or with their consent or knowledge or with the consent or knowledge of any person authorized by them to act as agent or otherwise any shingles which at any time became or were the

property of the defendants; and if the plaintiff shipped any shingles to C.D. as stated in the plaintiff's statement of claim he shipped the same of his own authority and at his own risk and under arrangements made with the said C.D. and not with or on behalf of the defendants.

7. The defendants further say that no shingles were ever delivered to or received by them nor did they accept any shingles.

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179. DEFENCE.—ACTION FOR GOODS SOLD.

Inferior Quality.

1. The plaintiffs never delivered to the defendant any shingles of the quality ordered.

2. The plaintiffs tendered to the defendant other shingles of a much lighter and inferior quality; these the defendant refused to accept, and returned the same to the plaintiffs.

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180. SEDUCTION.

The plaintiff suffered damage from the seduction and carnally knowing by the defendant of G.H., the (daughter and) servant of the plaintiff.

Loss of service from the ——— to the ———, $
Nursing and medical attendance .....$
$———

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181. SLANDER.

1. The plaintiff is a widow and resides in the Township of ——— in the County of ———, and has hitherto followed the business or calling of housekeeper. The defendant is a farmer and resides in the Township of ——— aforesaid.

2. On the ——— day of ———, 19—, and for some time prior thereto the plaintiff was in the employ of the defendant as housekeeper.

3. On the said ——— day of ———, 19—, the defendant falsely and maliciously spoke and published of and concerning the plaintiff, and of and concerning her in the way of her business or calling as a housekeeper, the words following, that is to say: "You (meaning the plaintiff) have been taking my meat and potatoes and eggs and butter to keep your daughter and son-in-law," meaning and implying thereby that the plaintiff was dishonest and guilty of stealing the defendant's goods and unfit to be employed as a housekeeper.

182. DEFENCE IN ACTION FOR SLANDER.

Vulgar Abuse.

1. The defendant admits that he spoke and published the words set out in paragraph ——— of the statement of claim, but denies that he spoke or published them with the meanings in the said paragraph alleged.

2. The defendant says the said words were merely vulgar abuse, and were uttered by the defendant in anger, as all who heard the words well understood; they were not intended or understood to convey any specific charge or imputation against the plaintiff.

3. The said words are incapable of any of the said meanings, or of other defamtory or actionable meaning whatsoever.

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183. SLANDER.

In Respect of Plaintiff's Business.

1. The plaintiff is a ——— carrying on business at ——— in the County of ———.

2. The defendant is a ———.

3. On the ——— day of ———, 19—, the defendant falsely and maliciously spoke and published of the plaintiff in relation to his said business as a ——— (*state words spoken verbatim, and add the innuendo, if any*) meaning thereby that the plaintiff &c.

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184. SPECIFIC PERFORMANCE.

Action by Purchaser.

1. By an agreement (*or* letters) dated (*or* made verbally at interviews on or about) the ——— day of ———, the plaintiff agreed to sell to the defendant lots ———, concession ———, Township of ———, for $———. The sale was to be completed on the ——— of ———.

(*If the agreement was verbal, add.*)

2. The agreement so entered into has been part performed as follows (*state how*).

The plaintiff claims specific performance of the above agreement and that the defendant may be ordered to execute a proper conveyance of the premises to the plaintiff (*stating in each case what the defendant is required specifically to do*).

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185. SPECIFIC PERFORMANCE.

Action by Vendor.

1. The plaintiffs reside in the City of Toronto.

2. The defendants are a duly incorporated company and carry on business at Montreal in the Province of Quebec.

3. By an agreement in writing, signed by A.B., the agent of the defendants thereunto lawfully authorized bearing date the ——— day of ———, 19—, the defendants agreed to purchase from the plaintiff certain lands and premises particularly described as follows: (*describe lands*) for the price or sum of $———.

4. The plaintiffs have always been ready and willing on their part to perform the said agreement, and have made or caused to be made frequent applications to the said defendants for the purpose of obtaining specific performance of the said agreement, but the defendants have neglected and refused and still neglect and refuse to perform the said agreement.

The plaintiffs therefore claim:

1. To have the said agreement specifically performed, and that for that purpose all proper directions may be given, the plaintiffs hereby offering to perform the said agreement on their part.

2. The costs of this action.

3. Such further or other relief as the nature of the case may require.

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186. SPECIFIC PERFORMANCE.

General Defences.

1. The defendants did not enter into the agreement alleged in the plaintiff's statement of claim to have been made between the plaintiff and the defendants.

2. A.B. was not the agent of the defendants.

3. The plaintiff has not performed the following conditions: (*Set forth conditions.*)

4. The plaintiff's title to the property agreed to be sold is not such as the defendants are bound to accept by reason of the following matters: (*State particulars.*)

5. The Statute of Frauds has not been complied with.

6. The agreement is uncertain in the following respects: (*Set forth particulars.*)

7. The defendants have been guilty of delay. (*Set forth particulars.*)

8. The defendants have been guilty of fraud (*or* the defendants have been guilty of misrepresentation.) (*Set forth particulars.*)

9. The agreement is unfair. (*Set forth particulars.*)

10. The agreement was entered into by mistake. (*Set forth particulars.*)

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187. DEFENCE.—STATUTE OF FRAUDS.

1. The defendant says that there is no memorandum in writing sufficient to satisfy the Statute of Frauds of the agreement alleged in the plaintiff's statement of claim to have been made between the plaintiff and the defendant.

188. DEFENCE.—STATUTE OF LIMITATIONS.

1. The plaintiff's claim is barred by the (Statute of Limitations). (21 Jac. 1, ch. 16, *or in an action for the recovery of land,* by The Real Property Limitation Act.) (*In Ontario,* The Limitations Act, 10 Edw. VII. (1910), ch. 34.)

189. TAX DEED.

Action to Set Aside.

1. The plaintiff is a merchant carrying on business in the Town of ——— in the County of ———, and the defendant is a farmer residing in the Township of ——— in the County of ———.

2. The plaintiff since the ——— day of ———, 19—, has been and is now the owner of Lot Number ——— in the ——— Concession of the Township of ——— in the County of ——— aforesaid, containing 200 acres more or less.

3. The plaintiff by himself and his tenants has been continuously since the said ——— day of ———, 19—, and is now in possession and occupation of the said lands.

4. On or about the ——— day of ———, 19—, the Treasurer of the County of ——— pretended to sell 12 acres of the said lands, to wit: (*here describe the lands*) to the defendant for taxes alleged to have been due and in arrear and unpaid and alleged to have been charged against the said Lot Number —— for the year 19—.

5. By deed dated the ——— day of ———, 19—, the Warden and the Treasurer of the said County of ——— pretended to convey to the defendant for the consideration therein named of $——— the said 12 acres of said lands, and the defendant caused the said deed to be registered in the Registry Office for the said County of ——— on the ——— day of ———, 19—.

6. The said 12 acres are worth $——, and there is valuable timber thereon, and the defendant claims to own the said 12 acres and claims the right to sell, and has attempted to sell, the timber thereon.

7. Until after the registration of the said pretended deed to the defendant as aforesaid, the plaintiff had no notice or knowledge that any taxes were in arrear or unpaid or were claimed to be in arrear or unpaid on said lands or any part thereof for the year —— or any other year, or that the said lands were liable to be sold or were to be sold for taxes, or that the said lands were advertised to be sold, or that the said 12 acres were sold and conveyed as aforesaid.

8. In each of the years 19—, 19—, 19— and 19—, the assessor of the Municipality of the Township of ——— wrongfully omitted to assess the said lands against the owner and occupant thereof, and neglected to enter the names of the owner and occupant

thereof on the assessment rolls, and wrongfully assessed the said lands as non-resident and unoccupied, and wrongfully omitted and neglected to give notice of the assessment of the said lands to the plaintiff, as required by law.

9. In each of the said years 19—, 19—, 19— and 19—, the collector of the Municipality of the Township of ——— wrongfully neglected and omitted to make a sufficient or any demand for the payment of the taxes due in said years, and neglected to give a sufficient or any notice of the amount of such taxes, and the said collector in each of said years wrongfully neglected and omitted to transmit by post to the plaintiff a sufficient or any statement and demand of the taxes charged against him in the roll, as required by law.

10. During each of the said years there was sufficient distress and there were distrainable goods and chattels on the said lands sufficient to satisfy the taxes for which the said sale was made and the costs of levying the same, and the said collector wrongfully omitted and neglected to distrain the same, and made a wrongful and false entry in his roll that there was no property on said lands out of which the taxes or any part thereof could be made, and made a wrongful and false statement under oath that there were not sufficient goods or chattels on the said lands belonging to or in possession of any occupant thereof whereon he could levy the said taxes or any part thereof.

11. The said collector wrongfully neglected and omitted to deliver to the Treasurer or to the Clerk of the Municipality of the Township of ——— any sufficient account of the taxes remaining due on the roll for the year 19—, or for any of the years 19—, 19—, or 19—.

12. The Clerk of the said Municipality wrongfully neglected and omitted to mail a notice to the plaintiff or in any way to notify him that any taxes on said lands were in arrear or unpaid for the year ——, or for any other year.

13. The Treasurer of the said Township of ——— in each of the years ——— wrongfuly neglected and omitted to furnish the Treasurer of the County of ——— with any proper or sufficient or any statement of unpaid taxes directed in the roll of the collector of said Township to be collected, as required by law.

14. The Treasurer of the said County of ——— wrongfully neglected and omitted to furnish to the Clerk of the Township of ——— on or before the 1st day of February in the years ———, a sufficient or any list of lands liable to be sold for arrears of taxes in the year 19—, or any of said years, as required by law.

15. The Clerk of the said Municipality of the Township of ———wrongfully neglected to keep on file in his office the list of lands liable to be sold for arrears of taxes in the year 19—, or to

deliver to the assessor of said Township for the year 19— a copy of such list.

16. The assessor of the Municipality of the Township of ——— for the year —— wrongfully neglected and omitted to ascertain if any of the lands contained in the list of lands liable to be sold for arrears of taxes in the year 19—, including the lands above described, were occupied, or to notify the occupants thereof and the plaintiff or any one of them, upon their respective assessment notices or otherwise, that the said lands were liable to be sold for arrears of taxes, and the said assessor wrongfully entered in the said list that the said lands were not occupied.

17. The said assessor wrongfully neglected and omitted to sign the said list of lands liable to be sold for arrears of taxes in the year 19—, and to return said list to the Clerk of the said Township, and to attach to said list and to sign and verify a certificate that he had performed his duties, as required by law.

18. The Clerk of the said Municipality of the Township of ———in the year 19— wrongfully neglected and omitted to furnish to the Treasurer of the said County of ——— a copy of the list of lands liable to be sold for taxes in the year 19— certified to by him under the seal of the Corporation, as required by law.

19. The said Clerk wrongfully neglected and omitted to examine the assessment roll of the said Township for the year 19— and to ascertain whether said lands were entered on said roll as then occupied, and to furnish the Treasurer of the County of ———with a proper list of lands which appeared on the said roll as having become occupied, as required by law.

20. The Treasurer of the said County of ——— wrongfully neglected and omitted in the year 19— to return to the Clerk of the said Township an account of the arrears of taxes due in respect of said lands, as required by law.

21. The Clerk of the said Township in making out the collector's roll of the year 19— wrongfully neglected and omitted to add the arrears of taxes for the year 19— or the arrears, if any, for any other year to the taxes assessed against the said lands for the then current year, as required by law.

22. No proper warrant for the sale of the said lands was issued and the said lands were not advertised for sale for the time or in the manner or place required by law.

23. No taxes charged against the said lands for the year 19— or for any other year were in arrear and unpaid by reason whereof a lawful or valid sale of the said lands could be made, and the proceedings required to be taken and the duties required to be performed by the officers of the said municipality respectively before a valid sale could be made were not properly taken or performed, as required by law.

24. The description of said lands so pretended to be sold and conveyed to the defendant is defective and insufficient and no property passed or was conveyed by the said pretended deed.

25. The said sale was not conducted in a fair, open or proper manner, and the defendant combined and contrived with another person or other persons to prevent fair and free competition in the bidding on said lands at said sale and the said lands were sacrificed.

26. Before the service of the writ herein and on the ——— day of ———, 19—, the plaintiff notified the defendant that the plaintiff claimed to own said lands and that the defendant's deed of said 12 acres was illegal and void, and the plaintiff duly tendered to the defendant $———, which sum exceeds the amount paid by defendant for the said lands and interest thereon at 10 per cent. per annum from the date of said sale to the said ——— day of ———, 19—.

The plaintiff therefore claims:—

(1) An injunction restraining the defendant from selling or otherwise disposing of or in any way dealing with the said lands or the timber thereon.

(2) An declaration that the said tax deed dated the ———day of ———, 19—, is null and void and that the same be ordered to be delivered up to be cancelled.

(3) The costs of this action.

(4) Such further or other relief as the nature of the case may require.

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190. TITLE.

Action to Set Aside Forged Deed.

1. By Letters Patent bearing date the ——— day of ———, 19—, His Majesty granted unto the plaintiff in fee simple Lot Number ——— in the ——— Concession of the Township of ——— in the County of ———.

2. The plaintiff has ever since the said grant continued to be and now is seised in fee simple of the said land, and has never made any conveyance thereof, or executed any instrument in any way affecting his title thereto.

3. Some time in or about the month of ———, 19—, the defendant forged a certain paper writing, purporting to bear date the ——— day of ———, 19—, and to be an indenture made between the plaintiff of the one part and the defendant of the other part, purporting to be a conveyance in fee simple of the said land by the plaintiff to the defendant.

4. The said defendant caused the said forged instrument to be registered in the Registry Office for the County of ———, and the same now appears in the books of registry of the said Registry Office, and is a cloud upon the plaintiff's title to the said land.

5. The said defendant is now a prisoner in the Provincial Penitentiary at Kingston under sentence of imprisonment passed upon his conviction of another forgery.

The plaintiff therefore claims:

(1) That the said instrument may be declared to be a forgery and to be a cloud upon the title of the plaintiff to the said lands.

(2) That the said instrument may be ordered to be delivered up to be cancelled, and that the registration thereof may be ordered to be vacated.

(3) The costs of this action.

(4) Such further or other relief as may seem meet.

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191. TRADE MARK.

Action on Behalf of Unincorporated Association.

Between W.T. and J.P., on behalf of themselves and all other members of the Cigar Makers' Co-operative Union, Plaintiffs, and C. & Company, Defendants.

Statement of Claim.

1. The Cigar Makers' Co-operative Union is a voluntary unincorporated association of practical cigar makers residing in the City of ——— and other places. The said Union was formed and is continued for the purposes among others of maintaining a high standard of quality and workmanship in the manufacture of cigars, and of increasing the demand for the labour of the members of the said Union. The plaintiffs W.T. and J.P. are members of the said Union, and this action is brought by the plaintiffs on behalf of themselves and all other members of the said Union.

2. The defendants are manufacturers and vendors of cigars and reside and carry on business in the City of ——— in the Province of Ontario.

3. The plaintiffs are the owners and proprietors of a certain trade symbol or mark consisting of a label with the following words upon it: (*here set forth the words verbatim*).

4. The said label was devised and adopted and thenceforth was and now is used by the members of the said Union as their trade mark, symbol and label, for the purpose of designating and distinguishing the cigars made by members of the said Union, and continuously since the adoption of the said label the public and cigar manufacturers and dealers have acquiesced in the exclusive right of user thereof by the said members and in their property in the same.

5. The said trade mark was registered in accordance with The Trade Mark and Design Act in the Trade Mark Register for Canada No. — folio, ——— on the ——— day of ——— A.D.

19—, and a certificate thereof under the said statute was duly issued to the plaintiffs. For greater particularity the plaintiffs will refer to the said certificate at the trial hereof.

6. The said trade mark was not in use by any person or persons other than the plaintiffs at the time of their adoption thereof, and the plaintiffs have duly complied with all the requirements of the law respecting trade marks, and the said trade mark and the registration and certificate thereof are valid and subsisting and in full force and effect and were so at the time of the acts of the defendant herein complained of.

7. The plaintiffs have the exclusive right to use the said trade mark, and have since their adoption and the registration thereof as aforesaid exclusively used the same in their trade, business, occupation and calling for the purpose of distinguishing and designating cigars manufactured and produced by them, and the said cigars have acquired a very valuable and extensive reputation for excellence in quality and workmanship.

8. The said trade mark is of great value to the plaintiffs and is recognized by the trade and public as an indication and assurance that the cigars marked therewith are of superior quality and workmanship and made by the members of the said Union, and the cigars so made and marked command a higher price in the market and are in greater demand than cigars sold by the defendants and not so made.

9. The defendants have lately been and now are using and issuing to the trade and public fraudulent imitations of the said trade mark and selling the same and cigars bearing upon them, and upon the packages containing them, fraudulent imitations of the said trade mark, falsely purporting to be issued by the plaintiffs, and the said cigars falsely purporting to be made by the plaintiffs, against the will of the plaintiffs and illegally and without the plaintiffs' permission and in contravention of the plaintiffs' rights under the said trade mark, the said fraudulent imitations imitating the plaintiffs' trade mark so closely as to be calculated to deceive the trade and public and lead them to believe that the said imitation label is the trade mark of the plaintiffs and that the cigars sold by the defendants have caused and are causing the plaintiffs great and irreparable injury and loss and are depriving them of the advantages of manufacture and sale of their own cigars distinguished and designated by the said trade mark, and are moreover by the sale of inferior cigars marked with the said fraudulent imitation seriously injuring the reputation of the plaintiffs' manufactures in the market and decreasing the manufacture and sale thereof and the demand for the plaintiffs' labour.

10. The said defendants have manufactured or procured to be manufactured and procured to be supplied to them large quantities

of fraudulent imitation labels for the purpose of, and have been and are attaching the same to cigars made by them with the intention of deceiving the public and the cigar trade, and have been and are disposing of their said cigars and said fraudulent imitation labels by representing that the said labels are the labels of the plaintiffs so protected to the plaintiffs by their trade mark as aforesaid and by representing that their cigars are made by the plaintiffs, which said representations are wholly false.

11. The said defendants threaten and intend to and will continue the said acts complained of, and will procure, use, sell and attach to cigars made and sold by them the said fraudulent imitation labels in contravention of the plaintiffs' rights under their said trade mark unless restrained from so doing by the order and injunction of this Honourable Court.

The plaintiffs therefore claim:—

1. That the defendants, their servants, workmen, employees and agents be restrained from directly or indirectly making, employing, using, disposing of, exposing or offering for sale or selling alone or together with cigars or attached to or fastened upon the same or on boxes or packages thereof any label, symbol, design or mark, being an imitation, counterfeit or copy or fraudulent or colourable imitation of the plaintiffs' said trade label, mark or symbol, and from in any way infringing the plaintiffs' rights thereunder.

2. That the defendants may be ordered to deliver up to the plaintiffs for destruction all such fraudulent imitation labels.

3. Damages for infringing the plaintiffs' rights.

4. The costs of this action.

5. Such further or other relief as may be deemed meet.

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192. TRESPASS TO GOODS.

1. The plaintiff is a lumberman residing in the Township of ——— in the County of ———. The defendant is the bailiff of the ——— Division Court in the County of ———.

2. On the ——— day of ———, 19—, the defendant wrongfully seized and carried away goods of the plaintiff, to wit, seven horses and three sets of double harness, and deprived the plaintiff of the use and possession of the same, and sold the said goods and chattels, and converted the proceeds thereof to his own use, and thereby caused great loss and damage to the plaintiff.

The plaintiff therefore claims:—

(1) $——— damages.

(2) The costs of this action.

(3) Such further or other relief as the nature of the case may require.

193. TRESPASS TO LANDS.

Damages for Trespass by Railway Company.

1. The plaintiff is a married woman residing at the City of ——— in the County of ———.

2. The defendant is a Corporation having its head office in the said City of ——, and has a franchise for an Electric Street Railway in the said City of ——— in the County of ———.

3. In the year ——— or ——— the plaintiff and several other parties, being the beneficiaries under the will of the plaintiff's father and being owners of certain lands in Toronto, had same surveyed by Messrs. ———, and laid out under a plan of subdivision and in accordance with the Registry Act, and said Plan, signed at dated ———, 19—, was duly registered in the Registry Office for ——— on the ——— day of ———, 19—, as Plan Number ———.

4. At the rear of the plaintiff's property there is laid out on the said Plan, a lane running from ———. The plaintiff craves leave to refer more particularly to the said Plan at the trial of this action.

5. Said lane was laid out on the ground and on said Plan for the benefit only of such persons who were at the time of the filing of said Plan the owners of the property abutting thereon, or who might hereafter become the owner of said lands and the rights of each of said owners were to have the full, free and uninterrupted use of said lane for the ordinary purposes for which a lane is used, and said lane is not and never was a public highway.

6. The plaintiff is the owner of Lot No. ——, according to said Plan, being part of the lands included in said Plan.

7. The defendant, in violation of the plaintiff's rights entered on said lane, trespassed thereon, and interfered with the character thereof, and obstructed same, and are further interfering with the plaintiff's rights of user of same and with her enjoyment of her property and her rights to have same continue as a private lane. The acts of the defendant which are complained of are that it has built and is operating, an electric railway upon and along said lane with ties and tracks, poles and overhead wires.

8. The acts of the defendant have also depreciated the value of the plaintiffs' land, and if continued will further depreciate the value of same.

9. The plaintiff therefore claims:

(a) $——— damages for the wrongful acts of the defendant.

(b) An order directing the defendant to remove its railway roadbed, tracks, ties and all overhead equipment.

(c) An injunction restraining the defendant from laying further tracks or operating their said railway on said lane.

(d) Such further and other relief as to the Court may seem fit.

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194. STATEMENT OF DEFENCE TO ABOVE.

1. The defendants admit the first, second and sixth paragraphs of the plaintiff's Statement of Claim.

2. The defendants deny the second, third, fourth, fifth, seventh and eighth paragraphs of the plainti's statement of Claim, and put the plaintiff to the strict proof thereof.

3. The defendants say they are not guilty.

4. The defendants say that the lane is a public lane and the title to the said lane is vested in the municipality of the Corporation of the City of ———, and that the said defendants are using said lane by leave and license of the said municipality.

5. The defendants say that in the alternative if the said lane is not a public lane that the defendants are absolute owners of or are entitled to the beneficial interest in certain lands abutting on the said lane and are entitled to the free and uninterrupted use of the said lands and their appurtenances.

6. The defendants ask that this action be dismissed as against them with costs.

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195. USE AND OCCUPATION OF LAND.

1. The defendant has by permission of the plaintiff used and occupied a house and land of the plaintiff known and described as ——— No. ——— on ——— Street in the City of ———, from the ——— day of ———, 19—, to the ———day of ———, 19—.

2. No express agreement was made between the plaintiff and the defendant as to the amount to be paid by the defendant for the use and occupation of the said house and land, but the fair and reasonable value of the use and occupation by the defendant of the said house and land is the sum of $———.

((*Or, where an agreement has been made*:) It was on the ——— day of ———, 19—, (*if so*, by agreement in writing), agreed between the plaintiff and the defendant that the defendant should pay to the plaintiff the sum of $——— per month (*or as the case may be*) for the use and occupation of said house and land.)

3. The defendant has not paid the plaintiff anything for such use and occupation.

196. WAREHOUSEMAN.

Action for Storage of Goods.

1. The plaintiff is a warehouseman at ———.

2. From the ——— day of ———, 19—, to the ——— day of ———, 19—, the plaintiff as such warehouseman kept, took care of and warehoused certain goods for the defendant at his request at $——— per month.

3. Before and at the commencement of this action the sum of $——— was due from and payable by the defendant to the plaintiff in respect of the matters aforesaid, full particulars of which have been delivered by the plaintiff to the defendant (*or* are as follows: *set out particulars.*)

4. The said sum is still due and unpaid.

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197. WASTE.

Action to Stay Waste.

1. The plaintiff was prior to the acts hereinafter complained of and has been continually since and now is seised in fee simple (*or as the case may be*) of Lot Number, &c., under and by virtue of an indenture, &c., bearing date, &c., and made between, &c.

2. The defendant C.D. is in possession of the said lot as tenant of the plaintiff for a term of ——— years (*or as the case may be*) under and by virtue of an Indenture of Lease bearing date, &c., and made between, &c.

3. The said defendant has since the ——— day of ———, 19—, committed waste upon the said lot by cutting down and removing from off the said lot and applying to his own use a large number of the timber and other trees standing, growing and being thereon, and by quarrying a large quantity of stone being on a part of the said lot, and by pulling down, &c., houses, &c.

4. The defendant continues and threatens and intends to continue to commit such waste as aforesaid, and other waste and destruction of the said lot, although frequently requested by the plaintiff to desist therefrom.

The plaintiff therefore claims:

1. That the said C.D. may be restrained by the order and injunction of this Honourable Court from committing such waste as aforesaid, or any other waste, spoil or destruction on the said premises, and that he may be ordered to account for the waste already committed by him.

2. The costs of this action.

3. Such further or other relief as the nature of the case may require.

198. **WILL.**

Action for Construction of.

1. A.B., late of ———, departed this life on the ——— day of ———, 19—, having first duly made and published her last will and testament, which said will is in the words following, that is to say: (*here set out the will*).

2. The defendant G.B., who is the only child of the said testatrix, is an infant under the age of 21 years. It is doubtful whether the bequest to the said infant defendant G.B. is entitled to priority and to be paid in full, or whether it must abate in the event of a deficiency (*or as the case may be*).

3. It is doubtful whether the legacies mentioned in the ——— paragraph of the said will should abate proportionately in the event of a deficiency.

The plaintiff therefore claims:

(1) That the said will may be interpreted and the trusts thereof declared by this Honourable Court, and the rights and interests of all the parties hereto ascertained and declared.

(2) Such further or other relief as may seem meet.

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199. **WORKMAN.**

Injuries to.

Under Workmen's Compensation Act, with Claim Added at Common Law.

The plaintiff claims under the Workmen's Compensation for Injuries Act for that whilst in the defendant's employment as a workman on the ——— day of ———, 19—, he was injured in the following manner, namely: (*here set out the facts*).

The injury was due to the negligence of one E.F., a manager, foreman, or overlooker in the service of the defendant, who negligently orderd the plaintiff to (*or* who failed to see that the plant was in a safe condition, or omitted to give proper order to———.)

And the plaintiff claims $———.

The plaintiff also alleges that the injury aforesaid was caused by the negligence of the defendant himself in not providing proper and competent persons to manage and control the work.

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200. **WORKMAN.**

Injuries to.

Action Under The Ontario Factories Act and The Workmen's Compensation for Injuries Act.

1. The plaintiff is a workman residing in the City of ——— and the defendants are machinists, boiler makers and foundrymen carry-

ing on business at their factory in the said City of ———.

2. The plaintiff was on the ——— day of ———, 19—, and for a number of years prior thereto in the employ of the defendants as a workman under a verbal contract and in receipt of wages for his services as such workman.

3. On the said ——— day of ———, 19—, the plaintiff was at work in the boiler shop of the defendants' works and was engaged in assisting to turn a boiler then in process of construction in said shop and was standing beside the gearing and machinery used in rolling said boiler. While the plaintiff was engaged in loosening certain screws in obedience to the orders of the defendants' foreman, the said gearing and machinery were set in motion, and in consequence of the defendants' negligence in not covering or protecting the said gearing and machinery the plaintiff's right foot was caught between the spoke of the wheel of said gearing and the timbers supporting the same and was badly crushed and mangled, whereby the plaintiff's foot was permanently injured and the plaintiff has suffered great pain and has been prevented for a long time from following his usual occupation, and has been put to great expense in procuring medical and other attendance for the purpose of being cured of said injury and has otherwise suffered great loss and damage.

4. The said gearing and machinery were dangerous and were not at the time of the said accident properly or securely guarded as required by the statute in that behalf, and by reason thereof the said gearing and machinery were in a defective condition.

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201. DEFENCE TO THE FOREGOING.

1. The defendants admit the allegations contained in the 1st and 2nd paragraphs of the plaintiff's statement of claim.

2. The defendants deny the allegations contained in the remaining paragraphs thereof.

3. The injury complained of by the plaintiff was not caused by the defendants' negligence.

4. There was contributory negligence on the part of the plaintiff which caused the said injury.

5. No notice in respect of the said injury was served on the defendants, as required by the statute in that behalf.

6. For a long time prior to the said accident the plaintiff was well aware of the condition of the said machinery, and if there was negligence on the part of the defendants (which the defendants deny) in not covering or guarding the same, the plaintiff was well aware thereof and failed without reasonable excuse to give within a reasonable time information thereof to the defendants, or to some person superior to the plaintiff in the service of the defendants.

202. WRONGFUL DISTRESS.

On the ——— day of ———, 19—, the defendant alleging that moneys were due for arrears of rent from the plaintiff as his tenant wrongfully distrained on certain premises occupied by the plaintiff, a quantity of the plaintiff's goods, to wit: — and on or about the ———day of ———, 19—, the defendant wrongfully sold the said goods.

2. At the time the said distress was made the plaintiff was not a tenant to the defendant, and there was no relationship of landlord and tenant between them so as to give rise to the right of distress.

Or, under the lease of the said premises which the plaintiff held from the defendant there was no rent reserved, but the said rent was to be fixed by arbitration, and the said rent had not been so fixed.

Or, at the time the said distress was made there was no rent due from the plaintiff to the defendant.

Or, the said distress was made after sunset to wit: at the hour of eleven o'clock at night.

Or, the tenancy between the plaintiff and defendant expired on the ——— day of ———, and the said distress was made after the expiration of six months from that date.

Or, certain of the goods distrained, to wit: ———, were in actual use at the time the said distress was made.

Or, certain of the goods distrained, to wit: ———, were affixed to the soil or attached to permanent buildings.

Or, certain of the goods distrained, to wit: ———, were tools and implements of the plaintiff's trade.

Or, certain of the goods distrained, to wit: ———, are exempt by law from seizure or distress for rent.

Or, the defendant in order to make the said distress wrongfully broke the outer door of the dwelling house where the goods were placed.

Or, the defendant failed in neglecting to give notice of the said distress or to make an appraisement of the goods distrained, as provided by law.

3. The value of the goods so distrained is $———.

4. Before the said distress was made, or before the said goods had been impounded, the plaintiff tendered to the defendant in satisfaction of the said arrears of rent and of the costs of the said distress, the sum of ——— dollars, which was sufficient to satisfy the same.

5. The defendant refused to accept this said sum and refused to deliver the said goods to the plaintiff.

203. WRONGFUL DISTRESS.

Action for Excessive Distress.

1. The plaintiff has suffered damage by the defendant levying an excessive and unreasonable distress upon the goods of the plaintiff at No. ———, ——— Street, whereof he was tenant to the defendant at a certain rent, for alleged arrears of the same rent contrary to the statute in such case made and provided.

2. The said goods were of much greater value than the amount of the said arrears and of the charges of the said distress and of the sale thereunder, and a part of them were of sufficient value to have satisfied the said arrears and charges might then have been distrained by the defendant for the same.

Particulars:
Rent distrained for, $———.
Charges of distress and sale, $———.
Value of goods distrained, $———.

GENERAL DEFENCES.

204. ACCORD AND SATISFACTION.

On ———, a brown horse was delivered by the defendant to and accepted by the plaintiff in discharge of the alleged cause of action;

(*Or*, on ———, an agreement between the plaintiff and the defendant that the defendant should deliver the cargo of the "Mary" at the ——— docks instead of at ———, as per charter-party of ———, was accepted in discharge of the alleged cause of action.)

205. INFANCY.

The defendant was an infant at the time of making the alleged contract.

206. RELEASE OR RECISSION.

The causes of action were released by deed dated the ———, between the plaintiff of the first part and the defendant of the second part.

or

The contract was rescinded (*or*, the defendant was exonerated by the plaintiff) before breach.

207. **DENIALS.**

The defendant did not contract (*or*, promise, *or*, agree) as alleged.

The defendant did not receive the goods for the alleged purpose (*or*, on the alleged terms).

The defendant did not receive the plaintiff as a passenger to be carried as alleged.

The defendant did not (*insert breaches denied*).

The plaintiff was not ready and willing to accept and pay for the goods (*or*, to deliver the goods, *or, as the case may be*).

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208. **CONTRIBUTORY NEGLIGENCE.**

There was contributory negligence on the part of the plaintiff.

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209. **DETINUE.**

The goods (*or*, chattels, *or as the case may be*) were not the plaintiff's.

The goods were detained for a lien to which the defendant was entitled. Particulars are as follows:

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210. **COPYRIGHT.**

1. The plaintiff is not the author (assignee, etc., *as the case may be*).
2. The book was not registered.
3. The defendant did not infringe.

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211. **PATENT.**

1. The defendant did not infringe the patent.
2. The invention was not new.
3. The plaintiff was not the first or true inventor.
4. The invention was not useful.
5. (*Denial of any other matter of fact affecting the validity of the patent.*)
6. The patent was not assigned to the plaintiff.

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212. **TRADE MARK.**

1. The trade mark is not the plaintiff's.
2. The alleged trade mark is not a trade mark.
3. The defendant did not infringe.

213. NUISANCE.

The defendant denies that he or his servants pollute the water (*or*, do what is complained of).

(*If the defendant claims the right by prescription or otherwise to do what is complained of, he must state the grounds of his claim, e.g., whether by prescription, grant, or what.*)

The plaintiff has been guilty of laches, of which the following are particulars:

1888 Plaintiff's mill began to work.
1899 Plaintiff came into possession.
1901 First complaint.

As to the plaintiff's claim for damages, the defendant will rely on the above grounds of defence, and says that the acts complained of have not produced any damage to the plaintiff. (*If other grounds are relied on, they must be stated, e.g., the Statute of Limitations as to past damage.*)

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214. TO ACTION FOR VERBAL SLANDER.

Actionable Only by Reason of Special Damage.

The defendant says that:—

1. The defendant did not speak or publish the words.
2. The words did not refer to the plaintiff.
3. The special damage stated is not sufficient in point of law to sustain the action.

CHAPTER VIII.

SPECIAL CASE.

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215. SPECIAL CASE.

For the Opinion of the Court. (*Rules 372-375.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

SPECIAL CASE.

The following case is stated for the opinion of the Court under an order of the Honourable Mr. Justice ———, dated the ——— day of ———, 19—, made pursuant to Rule 372 (*or as the case may be. Here state the material facts of the case bearing upon the question of law to be decided.*)

The question (*or* questions) for the opinion of the Court is (*or* are):

First: Whether, &c.

Second: Whether, &c.

Dated at ——— this ——— day of ———, 19—.

(*Signatures.*)

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216. NOTICE OF SETTING DOWN

Special Case. (*Rules 372-375.*)

Between A.B., Plaintiff,
and
C.D., Defendant.

Take notice that I have this day set down the special case stated in this action for argument at Osgoode Hall, Toronto, (*or* the report dated the ——— day of ———, 19—, of ———, Esq., the ——— Referee in this ——— for hearing as a special case) on ——— the ——— day of ———, 19—.

Dated this ——— day of ——— 19—.

X.Y.,
Plaintiff's Solicitor,
(*or as the case may be.*)

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217. PRÆCIPE FOR SETTING DOWN.

(*Title, etc.*)

Set down for argument the special case filed in this action on the ——— day of ———, 19—; (*or* set down the ———, dated the ——— day of ———, 19—, of Mr. ———, the ——— referee in this ——— for hearing as a special case.)

Dated the ——— day of ———, 19—.

(*Signed*) ———,
Solicitor for the———.

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218. NOTICE OF MOTION TO SET DOWN.

On behalf of the plaintiff, that he may be at liberty to set down for hearing the special case filed in this cause.

An affidavit in support accompanies.

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219. ORDER ON SPECIAL CASE

Which Disposes of the Action.

Upon hearing the special case, stated for the opinion of this Court, in the presence of counsel for the plaintiff and for the defendant, and upon hearing what was alleged by counsel on both

(*all*) sides, this Court is of opinion that, &c., and that, &c., and that, &c. And that the costs of this special case and of this action ought to be, etc.

And counsel for the (*plaintiff or defendant*) moving for judgment in accordance with the foregoing opinion, this Court doth order and adjudge accordingly; And it is ordered that it is referred to the senior taxing officer at Toronto to tax the said costs.

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220. ORDER ON SPECIAL CASE

Where Court Declines to Answer the Question.

(*Commence as above*) and this Court being of opinion that the question submitted for the opinion of the Court cannot properly be decided (during the life of the defendant B.) doth decline to decide the same.

CHAPTER IX.

PRODUCTION AND INSPECTION OF DOCUMENTS.

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221. ORDER FOR PRODUCTION.

Issued on Præcipe. (*Rule 464.*)

IN THE HIGH COURT OF JUSTICE.

——— day the ——— day of ——— 19—.

Between A.B., Plaintiff,

and

C.D., Defendant.

Upon the application of the plaintiff:

1. It is ordered that the defendant do, within ten days after the service of this order on him or his solicitor, make discovery on oath of the documents which are or have been in his possession or power relating to any matters in question in this action and do produce the same to and deposit the same in the Central Office at Osgoode Hall, Toronto, (*or* with the Deputy Clerk of the Crown, Deputy *or* Local Registrar of this Court at ——— (*as the case may require*), for the usual purposes.

---

222. ORDER TO PRODUCE BY CORPORATION.

It is ordered that the said ——— do within ten days after service of this order upon them or their solicitor file with the ——— of this Court ——— one or more full and sufficient affidavit or affidavits to be made by one or more of the officers of the said ——— stating whether they the said ——— have or had in their

possession or power any, and, if any, what deeds, books, papers, writings and documents, relating to the matters in question in this cause, unless the said ——— shall, on or before the day hereinbefore limited for filing such affidavit or affidavits, satisfy this Court by sufficient evidence that they are unable to obtain such affidavit or affidavits to be made.

And it is further ordered that the said ——— do within ten days, produce before, and leave upon oath, with the said ——— all such deeds, books, papers, writings and documents, in their custody or power relating to the matters in question in this cause, and that the said ——— be at liberty to inspect and take copies of, or extracts from, the same, and that the said ——— do cause the same to be produced before any Master or Examiner of this Court and at the hearing of this cause.

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223. AFFIDAVIT ON PRODUCTION OF DOCUMENTS.

(*Rule 467.*)

I, the above-named defendant C.D., make oath and say as follows:—

1. I have in my possession or power the documents relating to the matters in question in this action set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto.

3. (*Here state upon what grounds the objection is made, and verify the facts as far as may be.*)

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto.

5. The last mentioned documents were last in my possession or power on (*state when*).

6. (*Here state what has become of the last-mentioned documents and in whose possession they now are.*)

7. According to the best of my knowledge, information and belief, I have not now, and never had in my possession, custody or power, or in the possession, custody or power of my solicitors or agents, solicitor or agent, or in the possession, custody or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this action or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said first and second schedules hereto, and the pleadings and other proceedings in the action.

(*Here insert Schedules.*)

224. AFFIDAVIT ON PRODUCTION OF DOCUMENTS.

By Officer of Corporation. (*Rule 468.*)

I, ——— of ———, make oath and say as follows:

1. I am the (*here state the name of the office held by the deponent in the service of the Company on whose behalf he makes the affidavit*), and as such, have knowledge of all documents which are, or have been, in the custody or possession of the said (Company), relating to the matters in question in this action.

2. I am cognizant of the matters in question in this action.

3. The said defendants have in their possession or power, the documents relating to the matters in question in this action, set forth in the first and second parts of the first schedule hereto.

4. The said defendants object to produce the said documents set forth in the second part of the said first schedule hereto.

5. (*Here state on what grounds the objection is made, and verify the facts as far as may be, as for example*):

6. The said defendants have had, but have not now, in their possession or power, the documents relating to the matters in question in this action, set forth in the second schedule hereto.

7. The last mentioned documents were last in the possession or power of the said defendants on (*state when*).

8. (*Here state what has become of the last mentioned documents, and in whose possession they now are.*)

9. According to the best of my knowledge, information and belief, the said defendants have not now, and never had, in their possession, custody, or power, or in the possession, custody, or power of myself, or of any of their solicitors or agents, or of any person or persons whomsoever, on their behalf any (*proceed as in last form.*)

(*Here insert Schedules.*)

SPECIAL CLAUSES.

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225. DOCUMENTS NOT IN PARTY'S SOLE POSSESSION OR POWER.

The last mentioned documents are not in my sole possession or power, but only in my possession or power jointly with A.B. as my co-partner in the firm of A.B. & Co. of (or *as the case may be*).

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226. DOCUMENTS RELATING TO PARTY'S OWN CASE.

To the best of my knowledge, information and belief, the last mentioned documents relate solely to my own case and not to the case of the plaintiff (*or* defendant) and do not in any way tend to support or prove his case or to impeach my own.

227. DOCUMENTS HELD AS AGENT.

The last mentioned documents are in my possession or power only as solicitor for A.B. (*or as the case may be*) and I hold the said documents only on behalf of the said A.B. and not otherwise.

---

228. DOCUMENTS PRIVILEGED ON PUBLIC GROUNDS.

The last mentioned documents have been acquired and are held by me in my capacity of (*state the official or other position*) and not otherwise, and the attention of the Minister (*as the case may be*) subject to whose control I am as such having been called to the nature and contents of the said documents, he has by letter now produced and shewn to me and marked exhibit "A" hereto, directed me not to produce the said documents and to object to the production thereof in this action except under the order of this Honourable Court on the ground of the public interest which, in his opinion, would be injured by their production.

---

229. PRIVILEGED COMMUNICATIONS WITH LEGAL ADVISERS.

The last named documents consist solely of professional communications of a confidential nature, which, for the purpose of my obtaining legal advice, have passed between me and my solicitors, Messrs. ——— (and their Toronto agents, Messrs. ———), and counsel advising on my behalf or between my business manager under my instructions and on my behalf, and my solicitor, &c., (*as the case may be.*)

---

230. DOCUMENTS PREPARED AT A PARTY'S INSTANCE

And for the Purpose of Being Laid before Solicitors or Counsel to Obtain Legal Advice.

The last mentioned documents were prepared for me by A.B. my business manager (*or as the case may be*) acting at my request after the commencement of this action (*or* shortly before the commencement of this action and in view thereof and whilst such action was contemplated) merely for the purpose and with the intention of the same being laid before my solicitors confidentially and in their professional capacity in order to obtain their legal advice and to enable them properly to conduct (*or* defend) this action on my behalf.

---

231. DOCUMENTS PREPARED BY SOLICITORS

For the Purpose of Another Action and Privileged in It.

The last mentioned documents were prepared by my solicitors (*or* counsel) confidentially, and in their professional capacity after

the commencement of a former (*or* another) action in this Court wherein, &c. (*describe the parties*) *or* in view of such action and for confidential use between my solicitors (*or* counsel) and myself in relation to such action and the conduct thereof (*or as the case may be*).

---

232. COMMUNICATIONS FOR OBTAINING EVIDENCE.

The last named documents consist solely of confidential communications which since the commencement of this action (*or* in view of this action whilst it was contemplated or threatened or anticipated) have passed between my solicitors and third persons (*or* consist solely of confidential communications which since the commencement of this action (*or* in view of this action, and whilst the same was contemplated or threatened or anticipated) have passed between myself at the instance and request of Messrs. ——— my solicitors and third persons) merely for the purpose of obtaining or furnishing information or materials to be used as evidence on my behalf in this action, or to enable such evidence to be obtained and to enable my solicitors to conduct (*or* defend) this action on my behalf, and to advise me with reference thereto.

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233. OBJECTIONS BY MORTGAGEE.

I say that I am a mortgagee, and that a large sum is still due and owing to me, on my mortgage securities; and that the said several deeds, documents, and papers and writings set forth in the second part of the said first schedule form and support my title, and are intended to be used by me in evidence thereof accordingly; and do not contain anything impeaching my case, or tending to support the plaintiff's title (otherwise than as such title is admitted by me in my defence.) And I submit that, until I have been paid the principal money and interest due on my said mortgage in the plaintiff's statement of claim, and hereinbefore mentioned, and the costs of this action, the plaintiffs are not entitled to inspect the said deeds, documents, papers and writings, or any of them, or to have the same or any of them produced for any purpose.

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234. DOCUMENTS TENDING TO CRIMINATE.

The last mentioned documents, to the best of my knowledge, information and belief, may tend to criminate me and subject me to a criminal prosecution (*or* to prosecution for a penalty).

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235. NOTICE OF MOTION FOR BETTER AFFIDAVIT

As to Documents.

On behalf of the plaintiff (*or as the case may be*) for an order requiring the defendant A.B. (*or as the case may be*) forthwith to

file a further and better affidavit as to documents, pursuant to the order dated the ——— day of ———, 19—, and that the said defendant (*or as the case may be*) may be ordered to pay the costs of this application.

---

236. ORDER FOR BETTER AFFIDAVIT ON PRODUCTION.

1. It is ordered that ——— do file a better affidavit on production within ——— days after service of this order upon him or his solicitor, and do produce before and leave with the ——— all deeds, books, papers, writings and documents in his custody or power relating to the matters in question in this action, and do effectually comply with the said order to produce (*give date of former order*).

2. And it is further ordered that the said ——— do produce and deposit with the ——— of this Court the several documents set forth in the ——— schedule to his affidavit on production filed in this cause within ——— days after service upon him or his solicitor of this order.

3. And it is further ordered that the costs of this application be ———.

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237. NOTICE OF MOTION TO COMPEL PRODUCTION

Of Documents Objected to be Produced.

On behalf of the plaintiff (*or as may be*) that the defendant A.B. (*or as may be*) may be ordered to produce and leave with the (*proper officer*) the several documents mentioned in his affidavit filed the ——— day of ———, 19—, and in the second part of the first schedule thereto (*or as may be*) and thereby admitted to be in his possession or power, but which documents he thereby objects to produce. And that the (*applicant*), his solicitors and agents may be at liberty to inspect and peruse the said documents, and take copies and abstracts thereof and extracts therefrom.

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238. NOTICE OF MOTION

To Dismiss Action for Failure of Plaintiff to Produce Documents.

On behalf of the defendant for an order dismissing this action out of this Court with costs on the ground that the plaintiff has failed to comply with the order for production of documents served upon him herein.

239. NOTICE OF MOTION

To Strike Out Defence for Failure of Defendant to Produce Documents.

On behalf of the plaintiff for an order that the defendant's defence herein be struck out on the ground that he has failed to comply with the order for production of documents served upon him herein.

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240. NOTICE OF MOTION

To Commit for Non-production.

On behalf of the (plaintiff) for an order for attachment to commit the (defendant A.B.) to the gaol of the County or United Counties in which the said (defendant) may be found, for contempt in not producing and leaving with the proper officer in the Central Office (*or* with the Deputy *or* Local Registrar *or* Deputy Clerk of the Crown at ———) all books, deeds, papers, writings and documents in his custody or power relating to the matters in question in this action, and in not filing any affidavit in relation thereto, pursuant to the order for production of documents dated the ——— day of ———, served upon him in this cause. And take notice, that upon and in support of such motion will be read the said order to produce and the admission (*or* affidavit) of service thereof, and the certificate of the (Clerk of the Crown and Pleas, *or* Clerk of Records and Writs, *or* Deputy Clerk *or* Deputy or Local Registrar at ———.

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241. ORDER TO COMMIT FOR NON-PRODUCTION.

Upon the application of the ———, and upon hearing read ———, and it appearing that the ——— has not produced before or left with the ——— the books, deeds, papers, writings and documents in his custody or power, relating to the matters in question in this action, nor filed any affidavit relating thereto, although duly required so to do.

1. It is ordered that the Sheriff of the County or United Counties in which the said ——— may be found, do take the said ———in his custody and commit ——— to the gaol of his County or United Counties, to answer ——— said contempt.

2. And it is further ordered that a writ or writs of attachment do issue accordingly.

3. And it is further ordered that the ——— do pay to the applicant his costs of this application forthwith after taxation thereof.

242. NOTICE OF FILING AFFIDAVIT ON PRODUCTION.

(*Court and Style of Cause.*)

Take notice, that the plaintiff (*or* defendant) has this day filed his affidavit on production of books and papers (and has deposited the documents therein mentioned *if the fact be so*) in the office of (*as the case may be*). (And take notice that I require to be served with due notice when you intend to inspect the same).

243. NOTICE TO PRODUCE FOR INSPECTION.

Documents Referred to in Pleadings or Affidavits. (*Rule 469.*)

Take notice that the plaintiff (*or* defendant) requires you to produce for his inspection the following documents referred to in your statement of claim (*or* defence, *or* affidavit dated the ——— day of ———, A.D. 19—:)

(*Describe documents required.*)

244. NOTICE TO INSPECT DOCUMENTS.

(*Rule 470.*)

Take notice that you may inspect the documents mentioned in your notice of the ——— day of ——— A.D. 19— (*except the deed numbered ——— in that notice*) at my office on ——— day next the ——— instant between the hours of 12 and 4 o'clock.

Or, that the (plaintiff *or* defendant) objects to giving you inspection of the documents mentioned in your notice of the ——— day of ———, A.D. 19—, on the ground (*state the ground*).

245. NOTICE OF OBJECTION TO GIVE INSPECTION.

Take notice that the ——— objects to give you inspection of (*if the objection is to part only, insert* "part of" *and add* viz., *specifying the documents after the date*) the documents mentioned in your notice of the ——— day of ———, on the ground that ——— (*if to part only, continue* "but take notice that you may inspect the remainder of the documents referred to at," etc).

246. NOTICE OF MOTION FOR ORDER TO INSPECT DOCUMENTS.

For an order that the ——— or his solicitor or agent shall be at liberty to inspect and take copies of and extracts from the following documents, namely ———, referred to in the statement of claim (*or* in the affidavit of ——— sworn herein, *if necessary*, and that all proceedings in the meantime be stayed).

247. ORDER THEREON.

That the ——— shall be at liberty to inspect and take copies of or extracts from the following documents, namely, referred to in (*as the case may be*), and that the ——— do produce the said documents for such inspection at the office of his solicitor in the ——— of ——— between the hours of ——— and ——— in the ——— noon, on the ——— day of ——— next.

(*If necessary*). 2. It is further ordered that all further proceedings herein be stayed in the meantime or, until the ——— day of ———.

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248. NOTICE TO PRODUCE DOCUMENTS AT TRIAL.

(*Rules 448, &c.*)

Take notice that you are hereby required to produce and show to the Court on the trial of this action all books, papers, letters, copies of letters, and other writings and documents in your custody, possession or power, containing any entry, memorandum or minute relating to the matters in question in this action, and particularly the following:—(*Setting them out.*)

Dated, &c.

Description of document.	Date.

To the above-named defendant and to G.H., Esq., his solicitor or agent.

E.F.
Solicitor for the above-named plaintiff.

CHAPTER X.

EXAMINATION OF PARTIES AND WITNESSES.

249. APPOINTMENT TO EXAMINE FOR DISCOVERY.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the plaintiff I do appoint ——— day, the ——— day of ——— 19—, at my chambers, No. — ——— Street, ———, at the hour of ——— o'clock in the ——— noon for the examination *viva voce* upon oath before me of the above-named defendant touching his knowledge of the matters in question in this action pursuant to the Consolidated Rules in that behalf.

Dated this ——— day of ——— 19—.

Special Examiner.
(*or as the case may be.*)

250. WRIT OF SUBPOENA AD TESTIFICANDUM.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D. and others, Defendant.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the sea, King, Defender of the Faith, Emperor of India.

To ———, Greeting:

We command you to attend before ——— at ——— on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, and so from day to day until the above cause is tried (*or as may be*), to give evidence (*or* for examination for discovery *or as may be*) on behalf of the plaintiff (*or* defendant.)

Witness the Honourable ——— President, &c., the ——— day of ——— 19—.

In the margin:

Issued from the office of the ——— of the High Court of Justice in the County of ———.

To be indorsed:

This writ was issued by A.B. of ———, solicitor for the plaintiff (*or as the case may be*) who resides at ———.

251. WRIT OF SUBPOENA DUCES TECUM.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, &c.

To ———, Greeting:

We command you to attend before ——— at ——— on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, and so from day to day until the above cause is tried (*or as may be*), to give evidence (*or* for examination for discovery *or as may be*) on behalf of the ———, and also to bring with you and produce at the time and place aforesaid (*specify documents to be produced*).

Witness the Honourable ——— President, &c., the ——— day of ———, 19—.

(*Memo. of issue and indorsement as in preceding form.*)

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252. NOTICE TO PRODUCE ON EXAMINATION.

(*Short Style of Cause.*)

Take notice, you are hereby required to produce at your examination herein all letter books, books of account, receipts, invoices, letters and other documents in any way relating to the matters in question in this action.

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253. COMMENCEMENT OF DEPOSITIONS TAKEN ON EXAMINATION FOR DISCOVERY.

(*Style of Cause.*)

Examination of the ——— for discovery pursuant to the Consolidated Rules for the Supreme Court taken on oath before me ———, Special Examiner (*or* by Stenographer, approved and duly sworn by me) ——— at ——— the ——— day of ———, 19—.

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254. CERTIFICATE OF EXAMINER

As to Non-attendance.

(*Court and Style of Cause.*)

I, A.B., of the City of ——— in the County of ———, Special Examiner, do hereby certify that I did at the instance of the solicitors for C.D. on the ——— day of ———, 19—, appoint by written appointment which is hereunto annexed the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, at my chambers, No. — ——— Street, ——— for the cross-examination of the above-named E.F. on his affidavit filed herein. It appears by the affidavit of service of G.H. hereunto annexed that the said E.F. was duly served before the hour of ——— o'clock in the ——— noon on the ——— day of ———, 19—, with a true

copy of the said appointment and a copy of the subpœna issued herein and annexed hereto, and that the said E.F. was at the time of the said service paid the sum of $——— as and for his conduct money. And it further appears from the said affidavit of G.H. that X.Y. & Co., the solicitors for the said E.F., were also served with a copy of said appointment before the hour of ——— o'clock in the ——— noon on the ——— day of ———, 19—. The said E.F. did not appear before me for examination at the time and place mentioned in the appointment so served upon him as aforesaid. Counsel for C.D. attended and after waiting for the space of half an hour departed, and this certificate is given at the request of the said C.D.

Dated this ——— day of ——— A.D. 19—.

———

Special Examiner.

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255. CERTIFICATE OF EXAMINER.

As to Refusal of Party to be Sworn or to Produce.

(*Court and Style of Cause.*)

I certify that an appointment was issued by me for the ——— day of ———, 19—, to take the examination of the (defendant) in this action for discovery, and that the ——— attended before me on said day, but refused to be sworn and examined, *or* refused to produce (*specifying the documents*).

Dated this ——— day of ———, 19—.

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256. NOTICE OF MOTION TO DISMISS.

For Refusal to Attend to be Examined, Etc.

On behalf of the defendant that this action may be dismissed with costs, on the ground that the plaintiff has failed to attend to be examined pursuant to the appointment of ——— a Special Examiner of this Honourable Court, under the subpœna served upon him herein (*or* on the ground of his refusal to be sworn, or to answer lawful questions put to him on his examination for discovery herein or to produce documents pursuant to notice), and take notice that in support of such motion will be read the affidavit of ——— and the certificate of the Special Examiner.

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257. ORDER THAT PLAINTIFF ATTEND FOR EXAMINATION

Or in Default that Action be Dismissed. (*Rule 454.*)

1. It is ordered that the plaintiff do attend at his own expense before ———, Esq., Special Examiner, at such time and place as he shall in writing appoint, and submit to be examined *viva voce* upon oath touching his knowledge of the matters relating to this

action, pursuant to the statute in that behalf, and that in default of the said plaintiff so attending at the time and place aforesaid this action be dismissed with costs.

2. And it is further ordered that the defendant's solicitor do give the plaintiff's solicitor ——— days notice in writing of the time and place of such examination.

3. And it is further ordered that the costs of this application be ———.

258. NOTICE OF MOTION TO STRIKE OUT DEFENCE.

For Defendant's Non-production or Non-attendance.

On behalf of the plaintiff, for an order that the defence of the defendant A.B. may be struck out (and the plaintiff be at liberty to set down this action on motion for judgment for default of pleading, *or* to sign judgment for default of pleading) on the ground that the said defendant has failed to attend to be examined pursuant to the appointment of ———, Esq., a Special Examiner of this Honourable Court, served upon him herein. And take notice that in support of such motion will be read, the affidavit of ——— and the certificate of the said Special Examiner.

259. ORDER ON ABOVE MOTION.

1. It is ordered that the defendant do attend at his own expense at the ——— of ——— in the County of ———, before ———, at such time and place as he may appoint, for examination *viva voce* upon oath touching his knowledge of the matters relating to this action pursuant to the Rules of Court in that behalf; and in default that the defence of the said defendant be struck out.

2. And it is further ordered that the ——— solicitor do give the ——— solicitor ——— days' notice of the time and place of such examination.

3. And it is further ordered that the costs of this application be ———.

260. NOTICE OF MOTION TO COMMIT.

For Non-attendance for Examination or Refusal to be Sworn or to Answer.

On behalf of the plaintiff (*or* defendant) for an order for an attachment to commit the defendant (*or* plaintiff) to the common gaol of the county in which he ——— may be found for contempt in refusing or neglecting to attend the examination for discovery herein at the time and place appointed therefor (*or* refusing to be sworn or refusing to answer lawful questions put to him, *or* refusing to answer the questions hereinafter (*or* in the affidavits and papers filed on this application) mentioned on the appointment for his examination herein for discovery.

261. ORDER TO COMMIT.

And it appearing that he has been guilty of a contempt of Court in refusing or neglecting to attend, &c. (*or as the case may be.*)

1. It is ordered that the Sheriff of the county in which the said ——— may be found do take the said ——— into his custody and commit him to the gaol of his County for the said contempt, and that a writ or writs of attachment do issue accordingly.

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262. NOTICE OF MOTION FOR MEDICAL EXAMINATION.

For an order that the plaintiff may be medically examined by ———, the defendants' medical adviser, or some other duly qualified medical practitioner with regard to the personal injuries complained of by him in this action.

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263. ORDER FOR MEDICAL EXAMINATION.

1. It is ordered that the plaintiff be medically examined with regard to the personal injuries alleged to have been sustained by him, for which this action is brought by ———, the defendant's medical adviser in the presence of ———, the medical adviser of the plaintiff at ———.

2. And it is further ordered that the defendants' solicitors do give to the plaintiffs' solicitors ——— hours notice of the time for such examination.

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264. AFFIDAVIT FOR EXAMINATION DE BENE ESSE.

Witness Who is Aged, Ill or About to Leave the Province.
(*Rule 485.*)

1. I am the above-named plaintiff.

2. (*Set forth the state of the action, that it is at issue, that notice of trial has been served, or as the case may be.*)

3. C.D. of, &c., is a necessary and material witness on my behalf in this action, and I am advised by my solicitor herein and I verily believe that I cannot safely proceed to the trial of this action without the evidence of the said C.D.

4. The evidence which the said C.D. will be able to give on my behalf is in substance as follows: (*Here set forth concisely the material facts which witness can depose to.*)

5. The said C.D. is over ——— years of age, and is in a very weak condition of health, and there is great danger that the said C.D. will die before the trial of this action (*or as the case may be*); (*or* the said C.D. is dangerously ill with ———, and is not expected to recover as I am informed by ———, and verily believe; *or* the said C.D. is about to leave the Province of Ontario as I am

informed by ———, and verily believe); and the attendance of the said C.D. at the trial of this action cannot be procured for the reason aforesaid.

6. I have a good cause of action on the merits herein, and this application is made in good faith and not for the purpose of delaying or prejudicing the trial of this action or for any other improper purpose whatsoever.

Note.—If the witness sought to be examined is ill, an affidavit of the attendant Physician should also be filed.

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265. ORDER FOR EXAMINATION DE BENE ESSE.

Rule 485.

1. It is ordered that the said applicant be at liberty to examine ———as a party (*or* as a witness) in this cause *de bene esse* before ——— (a special examiner or master) at such time and place as said (special examiner or master) may appoint, saving all just exceptions.

2. And it is further ordered that all parties interested be given at least forty-eight hours notice of said examination.

3. And it is further ordered that the examination so taken be filed in the office of ———, and that an office copy or copies thereof may be read and given in evidence on the trial of this cause, saving all just exceptions, without any further proof of the absence of the said witness than the affidavit of the solicitor or agent of the ——— as to his belief, and that the costs of this application be ———.

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266. AFFIDAVIT FOR ORDER FOR COMMISSION

To Examine Witnesses out of the Jurisdiction.

1. This action is brought for (*state shortly the nature of the action*) and is now at issue, and I am desirous of proceeding therein.

2. The several witnesses following, namely, A.B., C.D., etc., are, as I believe and am advised by my solicitor, material and necessary witnesses for me in this action, and without their testimony I cannot safely proceed to the trial of this action. The said witnesses can prove the following facts (*here set forth shortly the facts which they can depose to.*)

3. The said A.B., C.D., etc., now reside at ———, out of the jurisdiction of this court.

4. I have a good cause of action (*or* a good defence) on the merits herein, and this application is made in good faith and not for the purpose of delaying or prejudicing the trial of this action, or for any other improper purpose whatsoever.

267. ORDER FOR COMMISSION

To Examine Witnesses. (*Rule 499.*)

1. It is ordered that a commission may issue out of this Court, directed to ——— of ——— a commissioner named by and on behalf of the ——— and to ——— of ——— a commissioner named by and on behalf of the ———, for the examination (upon interrogatories and) *viva voce* of witnesses on behalf of the said ——— and ——— respectively at ——— aforesaid before the said commissioners.

2. And it is further ordered that the ——— do within ——— days after service upon ——— of the interrogatories in chief deliver to the ——— his cross-interrogatories, and in default of his doing so the ——— is to be at liberty to send the said commission without cross-interrogatories.

3. And it is further ordered that ——— days previously to the sending out of the said commission, the solicitor of the said ——— shall give to the solicitor of the said ——— notice in writing of the mail or other conveyance by which the commission is to be sent out.

4. And it further ordered that within ——— days after service of this order upon ——— or his solicitor the ——— do deliver to the ——— the name and place of business of his agent in ——— aforesaid whom he has appointed to appear for him upon such examination, and upon whom notice of the said examination may be served.

5. And it is further ordered that upon the execution of the said commission and the examination of the said witness ——— and before the ——— day of ——— 19— the said commission and the deposition ——— of the witness ——— and all proceedings taken under the said commission be without delay after the said commission shall have been executed transmitted to the office of the ——— of the High Court of Justice at ———.

6. And it is further ordered that upon the return of the said commission either party upon giving ——— days notice of his intention to do so, may be at liberty to open the said commission and take an office copy or copies thereof, and of the said depositions, exhibits or other proceedings returned therewith.

7. And it is further ordered that upon the return of the said commission the said ———, upon the request of either party and upon payment of the postage therefor, shall transmit the said commission with the several proceedings returned therewith and the (said interrogatories and cross-interrogatories) and depositions taken as aforesaid to ——— to be by him produced at the trial of this action.

8. The costs of this order, and of the commission to be issued in pursuance hereof, and of the interrogatories, cross-interrogator-

ies, and depositions to be taken thereunder, together with any document, copy or extract, and the official copies thereof, and all other costs incidental thereto shall be ———.

268. PRÆCIPE FOR COMMISSION

To Examine Witnesses. (*Rule 499.*)

(*Court and Style of Cause.*)

Required in pursuance of order (*or* Master's certificate) dated the ——— day of ———, 19—, a commission to examine witnesses directed to ———.

Dated the ——— day of ———, 19—.

269. COMMISSION TO TAKE EVIDENCE.

CANADA, PROVINCE OF ONTARIO, TO WIT:

IN THE HIGH COURT OF JUSTICE FOR ONTARIO.

Between ———, Plaintiff,

and

———, Defendant.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To ———, Greeting.

Know — that we, in confidence of your prudence and fidelity, have appointed you, and by these presents give you power and authority to examine ——— *viva voce* as hereinafter mentioned, ———.

Witness — on behalf of the said ——— at ——— before you

And we command you as follows:

1. The said ——— shall be at liberty to examine, ——— *viva voce,* ——— such witness — as shall be produced on ——— behalf, with liberty to the other party to cross-examine the said witness ——— *viva voce,* on the subject matter thereof, or arising out of the answers to such examination, the party producing any witness for examination being at liberty to re-examine *viva voce;* and all such ——— *viva voce* questions, whether on examination, cross-examination, or re-examination, shall be reduced into writing, and with the answers thereto, shall be returned with the said commission.

2. Not less than forty-eight hours before the examination of any witness, on behalf of either of the said parties, notice in writing signed by you, ——— and stating the time and place of the intended examination, and the name — of the witness — to be examined,

shall be given to the other party by delivering the notice to ——— (or to a grown-up person there); ——— then you ——— shall be at liberty to proceed with and take the examination of the witness ——— *ex parte*, and adjourn any meeting or meetings, or continue the same from day to day until the witness — intended to be examined by virtue of the notice ha been examined, without giving any further or other notice of the subsequent meeting or meetings.

3. In the event of any witness on examination, cross-examination, or re-examination, producing any book, document, letter, paper, or writing, and refusing, for good cause to be stated in ——— Deposition, to part with the original thereof, then a copy thereof, or extract therefrom, certified by the ——— Commissioner ——— to be a true and correct copy or extract shall be annexed to the Deposition of the Witness.

4. Each witness to be examined under this Commission shall be examined on oath, affirmation or otherwise, in accordance with his or her religion, by or before the ——— Commissioner present at the examination.

5. If ——— the witness do not understand the English language (the ——— *viva voce* questions, ———, being previously translated into the language with which ——— conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters, to be nominated by the ——— Commissioner ———, and to be previously sworn according to ——— religion, by or before the said ——— Commissioner ——— truly to interpret the questions to be put to the wittness , and ——— answers thereto.

6. The Depositions to be taken under this Commission shall be subscribed by the witness ———, and by the ——— Commissioner who shall have taken the Depositions. But where the examination is taken in short-hand, it is not necessary for the Depositions to be read over or signed by the witness ———, unless any of the parties so desire; but in such case a copy of the Depositions in long hand, certified by the shorthand writer as correct, is to be attached to the Commission, and signed by the Commissioner ———, who shall have taken the Depositions.

7. The Questions and Depositions, together with any documents referred to therein, or certified copies thereof, or extracts therefrom, shall be sent to ——— of the High Court of Justice at ———on or before the ——— day of ———, enclosed in a cover under the ——— seal of the ——— Commissioner, with the affidavit of the due execution thereof, to be made by you, in accordance with instructions herewith given.

8. Before you ——— in any manner act in the execution thereof, you shall ——— take the oath on the Holy Evangelists, or

otherwise in such other manner as is sanctioned by the form of your ——— religion, and is considered by you ——— to be binding on your ——— conscience , in manner and form mentioned in the instructions herewith given.

Witness the Honourable ———, President of our said High Court of Justice, at Toronto, the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— and in the ———year of our reign.

Issued from the ——— office ——— of the High Court of Justice at ——— in the County of ——— under and pursuant to the order of ——— bearing date the ——— day of ———, A.D. 19—.

Clerk of Records and Writs.

Instructions as to the Execution of the Within Commission.

FIRST.—See that the proper notice of examination is given to the parties concerned.

SECOND.—Follow all the directions and requirements of the Commission strictly.

THIRD.—When executed, annex all the ——— *viva voce* questions, Depositions, Exhibits, Affidavits, and other papers firmly to the Commission, enclose them all in an envelope. Commissioner should put his seal on the envelope and write his name opposite the seal.

FOURTH.—Endorse the style of cause on the back of the envelope, and the word "Commission," and address it to ——— and pay the postage on it.

FIFTH.—The Affidavit, Affirmation or Declaration of Execution, and the oath necessary for you ——— to take before entering on the execution of the Commission should be made, affirmed or declared by ——— the Commissioner , before any Commissioner authorized to administer oaths in the Supreme Court of Judicature in England or Ireland, before a Judge of the Supreme Court of Judicature in England or Ireland, or of the Court of Session or the Justiciary Court in Scotland, or before a Judge of any of the County Courts in Great Britain or Ireland, within his County, or before any Notary Public, certified under his Hand and Official Seal, or before any Commissioner authorized to administer oaths in the High Court of Justice for Ontario, or before the Mayor or Chief Magistrate of any City, Borough, or Town Corporate in Great Britain or Ireland, or in any Colony of His Majesty ——— or in any Foreign Country, and certified under the Common Seal of such City, Borough or Town Corporate, or before a Judge of any Court of Record or of Supreme Jurisdiction in any Colony ———, belonging to the Crown of Great Britain, or any Dependency thereof or in any Foreign Country, or, if made in the British Possessions in India, before any Magistrate or Collector certified to

have been such under the hand of the Governor of such Possession, or, if made in Quebec before a Judge or Prothonotary of the Superior Court, or Clerk of the Circuit Court, or before any Counsul, Vice-Consul, or Consular Agent of His Majesty exercising his functions in any Foreign place, or before a Commissioner authorized by the laws of Ontario to take affidavits in and for any of the Courts of Record of the Province, for the purposes of and in and concerning any cause, matter or thing depending or in any wise concerning any of the proceedings to be had in the said Courts.

The Affidavit of Execution of the Commission should show the following facts:—

1st. The style of the Court and Cause.

2nd The names, residence, and addition of the Department in full.

3rd. The taking of the proper oaths by the Commissioner.

4th. The administering of the proper oaths to the Witness and Clerk .

5th. The writing down of the evidence taken, and that it was truly and correctly done.

6th. Identifying the ——— questions and evidence taken, and annexed to the Commission, as being those administered and taken under the Commission.

Commissioner's Oath.

You shall, according to the best of your skill and knowledge, truly and faithfully, and without partiality to any or either of the parties in this cause, taken the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the Commission within written. So help you God.

Clerk's Oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, ——— transcribe and engross ——— all and every the questions which shall be exhibited or put to all and every witness and witnesses, and also the depositions of all and every such witness and witnesses produced before and examined by the said Commissioners named in the Commission within written, as far forth as you are directed and employed by the Commissioners to take, write down, transcribe or engross the said questions and depositions. So help you God.

Witness' Oath.

You are true answer to make to all such questions as shall be asked you, without favour or affection to either party, and therein you shall speak the truth, the whole truth, and nothing but the truth. So help you God.

Interpreter's Oath.

You shall truly and faithfully, and without partiality to any or either of the parties in this cause, and to the best of your ability,

interpret and translate the oath or oaths, affirmation or affirmations which shall be administered to, and all and every the questions which shall be exhibited or put to all and every witness ——— produced before and examined by the Commissioner named in the Commission within written, as far forth as you are directed and employed by the said Commissioner, to interpret and translate the same out of the English into the language of such witness or witnesse , and also in like manner to interpret and translate the respective depositions taken and made to such questions out of the language of such witness or witnesses into the English language. So help you God.

Return to Commission.

The return of the within Commission will appear by the ——— depositions, affidavit and papers annexed.

(*Commissioner sign here.*)

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270. ORDER FOR DELIVERY OF INTERROGATORIES.

It is ordered that the ——— be at liberty to deliver to the ——— interrogatories in writing, and that the said ——— do, answer the interrogatories within ——— days, and that the costs of this application be ———.

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271. INTERROGATORIES.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., E.F., and G.H., Defendants.

Interrogatories on behalf of the above-named (*plaintiff, or defendant C.D.*) for the examination of the above-named (*defendants E.F. and G.H., or plaintiff*).

1. Did not, etc.
2. Has not, etc.

Etc., etc., etc.

(*The defendant E.F. is required to answer interrogatories numbered* ———.)

(*The defendant G.H. is required to answer the interrogatories numbered* ———.)

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272. ANSWER TO INTERROGATORIES.

The answer of the above named defendant E.F. to the interrogatories for his examination by the above-named plaintiff. In answer to the said interrogatories, I, the above-named E.F., make oath and say as follows:—

273. ORDER FOR ISSUE OF REQUEST FOR COMMISSION.

1. It is ordered that a letter of request do issue directed to the proper tribunal for the examination of the following witnesses, that is to say: E.F., of ———; G.H., of ———; and I.J., of ———.

2. And it is ordered that the disposition taken pursuant thereto when received be filed at the ——— Office, and be given in evidence on the trial of this action, saving just exceptions.

3. And it is further ordered that the trial of this action be stayed until the said depositions have been filed.

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274. LETTERS ROGATORY TO A FOREIGN COURT.

Ontario.

IN THE HIGH COURT OF JUSTICE FOR ONTARIO.

The High Court of Justice for Ontario.

To the (United States Circuit Court, having jurisdiction at ———, in the State of ———, one of the United States of America (*or as the case may be*) or to any Court, Judge or tribunal having competent jurisdiction in the said State of ———) Greeting:—

Whereas a certain action is pending in the said High Court of Justice for Ontario, wherein A.B. is plaintiff and C.D. is defendant, and it has been suggested to the said Court that there is a witness residing within your jurisdiction without whose testimony justice cannot be completely done between the said parties. You are therefore requested that in furtherance of justice you will, by the proper and usual process of your Court, cause such witness or witnesses as shall be named or pointed out to you by the said parties or either of them to appear before you, or some competent person by you for that purpose to be appointed and authorized, at a precise time and place by you to be fixed and there to answer on oath or affirmation to the several questions that may be put to such witness by the parties to the said cause or either of them, and that you will cause his depositions to be committed to writing and returned to this Court, under cover duly closed and sealed up, together with these presents. And we shall be ready and willing to do the same by you in a similar case when required.

Witness the Honourable ———, President of the High Court of Justice for Ontario, this ——— day of ———, A.D. 19—.

CHAPTER XI.

ADMISSIONS.

275. NOTICE TO ADMIT DOCUMENTS.

(*Rule 527.*)

Take notice that the plaintiff (*or* defendant) in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (*or* plaintiff) his solicitor or agent at —— on —— between the hours of ——; and the defendant (*or* plaintiff) is hereby required, within four days from the said day, to admit that such of the said documents as are specified to be originals were respectively written, signed or executed, as they purport respectively to have been; that such as are specified as copies are true copies, and such documents as are stated to have been served, sent or delivered, were so served, sent or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated, &c.

Solicitor for plaintiff (*or* defendant).

To E.F. solicitor for defendant (*or* plaintiff).

Here describe the documents, the manner of doing which may be as follows:

ORIGINALS.

Description of Documents.	Dates.

COPIES.

Description of Documents.	Dates.	Original or duplicate served, sent or delivered, when, how and by whom.

276. NOTICE OF REFUSAL

To Admit Documents.

Take notice that the (defendant) refuses to admit the several documents specified in the notices to produce and admit served by the (plaintiff) herein and will require strict proof of the same at the trial of this action.

Dated this ——— day of ———, 19—.

---

277. ADMISSIONS PURSUANT TO NOTICE.

I hereby make the admissions required to be made by the within notice (*if some only of the documents are admitted qualify the admission: as thus*: so far as relates to the documents distinguished therein by the numbers 1, 2, 3, &c.; and I decline to make any other of the admissions required by the said notice).

Dated this ——— day of ———, 19—.

Witness C.D.

A.B. solicitor (*or* agent) for the defendant (*or as may be*).

---

278. NOTICE TO ADMIT FACTS.

Take notice that the ——— in this cause requires the ——— to admit, for the purposes of this cause only, the several facts respectively hereunder specified; and the ——— is hereby required, within ——— days from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated, etc.

The facts, the admission of which is required, are—

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279. ADMISSION OF FACTS.

Pursuant to Notice.

The ——— in this cause, for the purposes of this cause only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this cause.

Provided that this admission is made for the purposes of this action only, and it is not an admission to be used against the ——— on any other occasion, or by anyone other than the ———(*or party requiring the admission*).

Delivered, the ——— to, etc.

Facts admitted.	Qualifications or limitations if any, subject to which they are admitted.

280. ADMISSION BY BOTH PARTIES.

Admissions on the part of the plaintiff and defendant.

It is hereby agreed, on behalf of the plaintiff and defendant respectively, to make the following admissions; and that these admissions, and the documents mentioned or referred to therein may be used and read in evidence upon the trial of this action, and for all the purposes thereof, save and except all just causes of exception to the admissibility of the same as evidence; that is to say:

CHAPTER XII.

NOTICES, ETC.

281. NOTICE OF DISCONTINUANCE.

(*Rule 430.*)

(*Style of Cause.*)

Take notice that the plaintiff hereby wholly discontinues this action (*or* withdraws so much of his claim in this action as relates to, &c.: *if not against all the defendants add*: as against the defendant C.D.)

Dated, &c.

282. NOTICE OF CONFESSION OF ACTION.

For Recovery of Land. (*Rule 597.*)

(*Style of Cause.*)

I, the defendant C.D., hereby confess this action (*or* confess this action as to part of the land claimed, namely: *describe the part*).

Dated, &c.

Witness:

X.Y.

Solicitor for the defendant C.D.

283. NOTICE OF CONFESSION OF DEFENCE.

Arising pending Action. (*Rule 295.*)

(*Style of Cause.*)

The plaintiff confesses the defence stated in the ——— paragraph of the defendant's statement of defence (*or* of the defendant's further statement of defence).

Dated, &c.

284. NOTICE OF TRIAL.

(Rule 538.)

(Style of Cause.)

Take notice of trial of this action (*or* the issues in this action ordered to be tried) at ——— for the ——— day of ——— next.

Dated, &c.

To ———.

---

285. NOTICE OF TRIAL.

Toronto Non-jury Sittings. (Rule 542.)

(Style of Cause.)

Take notice that this action (*or* the issues in this action ordered to be tried) was (*or* were) set down on the ——— day of ———, 19—, for trial at the Toronto non-jury sittings.

Dated, &c.

---

286. NOTICE FOR JURY.

(Court and Full Style of Cause.)

The plaintiffs (*or one or more of them, or* the defendants, *or one or more of them as the case may be*) require that the issues in this cause be tried (*or* the damages in this cause be assessed) by a jury.

Dated, &c.

---

287. NOTICE OF SPECIAL DEFENCE.

(Court and Style of Cause.)

Take notice that the defendant intends at the hearing of this action to give in evidence and rely upon the following ground of defence:—

That no notice of injury was given to the defendant, pursuant to ——— *or,*

That the claimant is barred by ———.

---

288. NOTICE OF INTENTION TO USE LETTERS PROBATE

As Evidence of Original Will.

(Style of Cause.)

Take notice that the plaintiff (*or* defendant) intends at the trial of this action, to give in evidence as proof of the devise of the lands and premises in question in this cause by A.B. (*the testator*) to C.D., the probate of the will of the said A.B. (*or* the letters of administration with the will of the said A.B. annexed), or a copy thereof stamped with the Seal of the Surrogate Court of the County of ——.

Dated, &c.

289. NOTICE OF INTENTION TO PROVE A REGISTERED INSTRUMENT

By Certified Copy.

Take notice that the plaintiff (*or* defendant) intends, at the trial of this action, to give in evidence as proof of the deed of conveyance of the lands in question in this cause from A.B. to C.D., dated the ——— day of ———, 19—, a copy of the said deed, certified by the Registrar of the County of ———, under his hand and seal of office.

Dated, &c.

290. NOTICE OF INTENTION TO GIVE EVIDENCE OF AN APOLOGY.

Take notice that the defendant intends at the trial of this action to give evidence in mitigation of damages that he made (*or* offered) an apology to the plaintiff for the defamation complained of in the statement of claim herein before commencement of this action (*or* so soon after the commencement of this action as there was opportunity of making (*or* offering) such apology and that this action was commenced before there was an opportunity of making (*or* offering) such apology.

The said apology was made (*or* offered) on the ——— day of ———, 19—, by a letter from the defendant to the plaintiff (*or as may be the case*).

Dated, &c.

291. NOTICE OF PARTICULARS.

In Mitigation of Damages in an Action for Libel or Slander.

Take notice that the defendant intends at the trial of this action to give evidence with a view to the mitigation of damages as to the circumstances under which the alleged libel (*or* slander) was published (*or* uttered) (*or as to the character of the plaintiffs*).

The particulars of the matters as to which the defendant intends to give such evidence are as follows, namely:

(*Set out the various matters in separate paragraphs*).

292. PRÆCIPE TO SET DOWN.

For Argument.

(*Court and Style of Cause.*)

Set down for argument the ———.

Dated the ——— day of ———, 19—.

Solicitor for ———.

293. PRÆCIPE TO ENTER ACTION FOR TRIAL.

(*Rules 538, 542.*)

(*Court and Style of Cause.*)

Enter (*or* set down) this action for trial at the sittings of the High Court (*or* Assizes) at ———, commencing on the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Solicitor for ———.

294. CERTIFICATE ENDORSED ON EXHIBITS AT TRIAL.

(*Rule 555.*)

No. ———.

In the High Court of Justice.

(*Short Style of Cause.*)

This Exhibit (the property of ———) is produced by the plaintiff (*or* defendant *as the case may be*), this ——— day of ———, 19—.

Registrar, Dep. Clerk, or Local Registrar.

295. CERTIFICATE OF EXHIBITS PUT IN AT TRIAL.

(*Rule 556.*)

In the High Court of Justice.

Jones v. *Smith.*

List of exhibits put in at the trial of this action at ——— the ——— day of ———, 19—.

Plaintiff's Exhibits.

(1) Patent.
(2) Deed, Jones to Smith.
(3) Bundle of promissory notes, (six in all).

Defendant's Exhibits.

(4) Records of proceedings at Lodge of A.O.U.W.
(5) Will of Arthur Brown.

(*Signature of Officer.*)

296. DEMAND OF COPY OF AFFIDAVIT OR OTHER PAPER.

(*Style of Cause.*)

Please furnish ——— with a true copy of the ——— filed by you herein on the ——— day of ———.

Dated the ——— day of ———, A.D. 19—.

To ———.

297. CERTIFICATE OF STATE OF CAUSE.

(*Style of Cause.*)

The ——— day of ———, A.D. 19—.

This is to certify that the writ of summons in this action was issued on the ——— day of ———, 19—, and that the following subsequent proceedings have been taken and appear on my books:—(*Set forth proceedings taken.*) Since which no further proceeding has been taken in this cause, as by my books appears.

Deputy-Registrar.

(*Or as the case may be*).

CHAPTER XIII.

COMPELLING ATTENDANCE OF PARTIES AND WITNESSES.

298. WRIT OF SUBPOENA AND TESTIFICANDUM.

For Assizes.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To ———, Greeting:

We command you to attend before our Justices assigned to take the Assizes in and for the County of ——— to be holden at ——— on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, and so from day to day during the said Assizes until the above cause is tried (*or as may be*), to give evidence on behalf of the ———.

Witness the Honourable ——— President, &c., the ——— day of ———, 19—.

(*Memo. of issue and address as in Form No. 9.*)

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299. WRIT OF SUBPOENA DUCES TECUM.

For Assizes.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, &c.

To ———, Greeting:

We command you to attend before our Justices assigned to take the Assizes in and for the County of ——— to be holden at ——— on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, and so from day to day during the said

Assizes until the above cause is tried, to give evidence on behalf of the ———, and also to bring with you and produce at the time and place aforesaid (*specify documents to be produced*).

Witness the Honourable ——— President, &c., the ——— day of ———, 19—.

(*Memo. of issue and address as in Form No. 9.*)

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300. AFFIDAVIT FOR ISSUE OF SUBPOENA.

To Province of Quebec.

(*Court and Style of Cause.*)

1. I am a member of the firm of ———, solicitors for the plaintiffs herein, and I have the conduct of this action.

2. This cause is at issue and notice of trial was given for the last sittings of this Court holden at the City of ——— for the trial of actions without a jury, when the said case was made a remanet and is now on the list of cases to be tried at the next sittings to be holden at the said City of ——— on the ——— day of ———, 19—.

3. G.H. is a necessary and material witness on behalf of the plaintiffs in this cause, and the said plaintiffs cannot safely proceed to a hearing of this cause without the evidence of the said G.H.

4. The said G.H. resides at the City of Montreal in the Province of Quebec, as I am informed and verily believe.

5. There is no action or suit pending in the said Province of Quebec in respect of the matters in question in this action.

---

301. ORDER FOR SUBPOENA.

For Service in the Province of Quebec.

1. It is ordered that a subpœna *ad testificandum* (*or* a subpœna *duces tecum*) do issue out of and under the seal of this Court, directed to A.B. of the City of Montreal in the Province of Quebec, requiring him to attend at the trial of this action at the next sittings of this Court to be holden at the ——— of ——— in the County of ——— on the ——— day of ———, 19—.

2. And it is further ordered that the costs of this application be costs in the cause.

---

302. ORDER FOR SUBPOENA.

To Registrar of Deeds. (*Rule 479.*)

1. It is ordered that a subpœna *ad testificandum et duces tecum* do issue out of and under the seal of this Court, directed to ———, Esquire, Registrar of Deeds in and for the ——— of ———, requiring him to be present at the trial of this action at the sittings of this Court to be held for the trial of actions at ——— on ———

day the ——— day of ———, 19—, and to produce at such time and place the following documents now in his custody as such Registrar:—

(*Here set forth the original records or memorials required.*)

303. ORDER TO BRING UP WITNESS

In Criminal Custody. (*Rule 495.*)

It is ordered that the Warden of the Provincial Penitentiary at ——— shall have before ——— on the ——— day of ———, 19—, at ——— o'clock in the forenoon the body of ———, a prisoner in his custody (as it is said), then and there to testify the truth and give evidence in this cause on behalf of ———, and so from day to day until his attendance as such witness shall be no longer required, and that thereupon he be taken back without delay to the said prison, and there detained until he be discharged by due course of law.

304. ORDER FOR WRIT OF HABEAS CORPUS

Ad Testificandum.

1. It is ordered that a writ of Habeas Corpus do issue out of this Court directed to the Warden of the (Provincial) Penitentiary at ———, requiring him upon proper conduct money for bringing up and returning and for maintenance on the way being paid, to produce ——— at present confined in the said penitentiary before the presiding Judge at the sittings holden for the trial of actions without a jury at the City of ——— in the County of ———, on ——— day the ——— day of ———, 19—, at the hour of — o'clock in the forenoon and so on from day to day until this action is tried, to give evidence on behalf of the (plaintiff).

2. And it is further ordered that the costs of this application and of the said writ be reserved to be disposed of by the Taxing Officer who shall tax the costs of this action.

305. AFFIDAVIT.

For Writ of Habeas Corpus ad Test. or Order to Testify.

1. That this cause stands for trial at ——— in and for ——— of ——— on the ——— day of ———, 19—, and that E.F., a prisoner confined in ——— prison at ——— of ———, undergoing a term of penal servitude (*or otherwise describe the nature of the confinement*) is a material and necessary witness on behalf of ——— on the trial of the said cause.

2. That the said ——— cannot safely proceed to trial without the evidence of the said E.F.

306. WRIT OF HABEAS CORPUS AD TESTIFICANDUM

To Produce Prisoner as Witness.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, to the keeper of our prison at ——— (*or as the case may be*).

We command you that you bring ———, who it is said is detained in our prison under your custody, before ——— at ——— on ——— day the ——— day of ———, 19—, at the hour of ——— in the ——— noon, and so from day to day until the above action is tried, to give evidence on behalf of the ———. And that immediately after the said ——— shall have so given his evidence you safely conduct him to the prison from which he shall have been brought.

Witness the Honourable ——— President, &c., the ——— day of ———, 19—.

(*To be inserted in the margin.*)

Issued from the office of the High Court of Justice at ———, pursuant to the order of the Honourable Mr. Justice ———, dated the ——— day of ———, 19—.

---

307. PRÆCIPE FOR WRIT OR HABEAS CORPUS

Ad Testificandum.

(*Court and Style of Cause.*)

Required in pursuance of order dated the ——— day of ———, 19—, a writ of *habeas corpus ad testificandum* directed to ——— to bring ——— before ———.

Dated the ——— day of ———, 19—.

Solicitor for the ———.

---

308. WARRANT FOR ARREST.

Of a Defaulting Witness. (*Rule 482.*)

PROVINCE OF ONTARIO.

County of ———.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,

and

C.D., Defendant.

To E.F.:

Whereas proof has been made before me that H.N. was duly subpœnaed to give evidence on behalf of the plaintiff (*or as the*

case may be) in this cause at the sittings of the Court of Assize (*or as the case may be*) at Toronto (*or as the case may be*), which commenced on the ——— day of ———, 19—; that the presence of the said H.N., is material to the ends of justice; and that the said, H.N. has failed to attend in accordance with the requirements of the subpœna:

These are therefore to command you to take the said H.N. and to bring and have him before me at the said sitttings, or before such other Judge as may be presiding thereat, there to testify what he may know concerning the matters in question in the said cause, and that you detain him in your custody until he shall have given his evidence, or until the said sittings shall have ended, or until other order be made by the Court concerning him.

Given under my hand this ——— day of ———, A.D. 19—, at ———.

(*Signature of Judge.*)

CHAPTER XIV.

AFFIDAVITS.

309. **AFFIDAVIT.**

General Form. (*Rule 517.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

I, E.F., of (*place of residence and description or addition*), make oath and say as follows:—

Or, We, E.F. and G.H., of, etc., severally make oath and say as follows:—

1.

2.

3. *If necessary*, And I, the said E.F., for myself say, etc.

Sworn (*if there be more than one deponent* by the said *naming each deponent*) before me at the ——— of ———, in the County of ———, this ——— day of ———, 19—.

A Commissioner, &c.;
Or,
A Notary Public in and for the Province of Ontario.

310. STATUTORY DECLARATION.

DOMINION OF CANADA. In the matter of
Province of Ontario,
County of ———.
To Wit:

I, ——— of ——— in the County of ———. Do solemnly declare that: (*Set out the facts as in an affidavit*).

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act."

Declared before me at the
——— of ——— in the ———
——— Count of ——— this
——— day of ———, A.D. 19—.

A Commissioner, &c., (*or* Notary Public).

---

311. JURAT.

Where Deponent Illiterate.

Sworn before me at the ——— of ———, in the County of ———, this ——— day of ———, 19—, the said affidavit having been first read over in my presence to the deponent (*or* the deponent E.F.,) who seemed perfectly to understand the same and signed the same (*or* made his mark thereto) in my presence.

---

312. JURAT.

For Affidavit Made Out of Ontario.

Sworn before me at the City of London, in that part of Great Britain called England (*or* at the City of Buffalo, in the State of New York, one of the United States of America, *or as the case may be*), this ——— day of ———, 19—.

(*As to who may take affidavits out of Ontario for use in Ontario see The Evidence Act, Ontario*).

---

313. OATH.

Where one deponent sworn.

To the deponent: Is that your name and handwriting? You swear that the contents of this affidavit subscribed by you are true—So help you God.

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314. OATH.

Two or more deponents sworn together.

To each deponent: Is that your handwriting?

To both or all: You do severally swear that the contents of this your affidavit, subscribed by you, are true—So help you God.

315. OATH AND JURAT.

Where Commissioner Reads Affidavit to Blind Deponent.

To the deponent: You do swear that the contents of this your affidavit are true—So help you God.

Sworn by the deponent A.B. at (*state where and when*) before me; I having first truly, distinctly and audibly read over to him the contents of this affidavit. (*If any exhibits are referred to in the affidavit, add*: and explained to him the nature and effect of the exhibits therein referred to); he being blind; and he appeared to understand the same.

A.B. or his A. X B. mark.

A Commissioner, &c.

---

316. OATH OF MARKSMAN.

Where Witness Reads Affidavit to Deponent.

To the witness: Is that your name and handwriting?

You do swear that you have truly, distinctly, and audibly read over the contents of this affidavit to the deponent A.B. (*if any exhibits are referred to in the affidavit, add*: and explained to him the nature and effect of the exhibits therein referred to); and that he appeared to understand the same, and made his mark to this affidavit in your presence—So help you God.

To the marksman: Is that your mark?

You do swear that the contents of this your affidavit are true—So help you God.

Sworn by the deponent A.B. before me at ——— C.D. the witness to the mark of the said A.B. having been first sworn that he had truly, distinctly and audibly read over the contents of this affidavit to the deponent A.B. (*If any exhibits are referred to in the affidavit, add*: and explained to him the nature and effect of the exhibits therein referred to), and that the deponent A.B. appeared to understand the same and made his mark to this affidavit in the presence of the deponent C.D.

The mark of X A.B.

Witness to the mark of the said A.B.; C.D. of (*Residence and addition.*)

---

317. OATH OF A MARKSMAN.

Where Commissioner reads Affidavit to Deponent.

To the deponent: Is that your mark?

You swear that the contents of this affidavit unto which you have affixed your mark are true—So help you God.

Sworn before me, etc.

X The Mark of A.B.

318. OATH AND JURAT.

Where Witness Reads Affidavit to Blind Deponent.

To the witness: Is that your name and handwriting? You do swear that you have truly, distinctly and audibly read over the contents of this affidavit to the deponent A.B. (*If any exhibits are referred to in the affidavit, add*: and explained to him the nature and effect of the exhibits therein referred to); and that he appeared to understand the same, and signed his name (*or* made his mark) to this affidavit in your presence—So help you God.

To the blind man: You do swear that the contents of this your affidavit are true—So help you God.

Sworn before me by the deponent A.B. at (*state where and when*) C.D. the witness to the signature (*or* mark) of the deponent A.B., having been first sworn that he had truly, distinctly and audibly read over the contents of this affidavit to the deponent A.B. (*If any exhibits are referred to in the affidavit, add*: and explained to him the nature and effect of the exhibits therein referred to); he being blind; and that the deponent A.B. appeared to understand the same, and signed his name (*or* made his mark) to this affidavit in the presence of the deponent C.D.

A.B.
or
his
A. X B.
mark.
Witness to the
Signature (*or*
mark) of the
deponent A.B.
C.D.
of (*Residence and addition.*)

---

319. SCOTCH OATH TO AFFIDAVIT.

The Commissioner requests the deponent to hold up his right hand and repeat the words of the oath after him: I swear by Almighty God (as I shall answer to God at the Great Day of Judgment) that the contents of this my affidavit are true.

---

320. OATH OF A SCOTCH COVENANTER.

To be uttered by the deponent: I, A.B., do solemnly and sincerely declare, that (*state in what form, and with what ceremony, an oath will be binding*: *as*: holding up my right hand, and declaring to the truth, as I shall answer to Almighty God at the great day of judgment), is a form of oath that is most binding on my conscience; and (*here holding up his hand*) I do solemnly and sincerely declare, that ——— (*repeat the binding form as*: as I shall answer to Almighty God at the great day of judgment).

321. AFFIRMATION BY A QUAKER, OR MORAVIAN, SEPARATIST, ETC.

To be uttered by the deponent: I, A.B. being one of the people called Quakers (*or*, one of the persuasion of the people called Quakers—*or* of the United Brethren called Moravians, *or, as the case may be*) and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly affirm and declare that ———.

Affirmed before me, etc.

---

322. OATH BY A FOREIGNER.

Deposition in English through an Interpreter.

To the interpreter: Is that your name and handwriting?

You swear that you well understand the French language (*or other language of the foreigner*) and that you have truly, distinctly and audibly interpreted the contents of this affidavit to the deponent A.B.: and that you will truly and faithfully interpret to him the oath about to be administered to him—So help you God.

To the foreigner, through the interpreter: Is that your name and handwriting?

You swear that the contents of this affidavit by you subscribed are true—So help you God.

Sworn before me at, etc., by the deponent A.B., through the interpretation of C.D.; the said C.D. having been first sworn that he had truly, distinctly and audibly interpreted the contents of this affidavit to the deponent A.B.; and that he would truly, and faithfully interpret to the said A.B. the oath to be administered to him.

A.B.
C.D.
of (*residence and addition.*)

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323. OATH BY FOREIGNER.

Affidavit in Foreign Tongue, Oath being Interpreted.

To the interpreter: Is that your name and handwriting?

You do swear that you well understand the French language (*or other language of the foreigner*) and that you will truly and faithfully interpret to the deponent A.B. the oath about to be administered to him—So help you God.

To the foreigner, though the interpreter: Is that your name and handwriting?

You swear that the contents of this affidavit by you subscribed are true—So help you God.

Sworn before me at, etc., by the deponent A.B., through the interpretation of C.D., the said C.D. having been first sworn that he would truly and faithfully interpret to the said A.B. the oath about to be administered to him.

A.B.
C.D.
of (*residence and addition.*)

324. OATH BY FOREIGNER.

Verification of Translation into English.

To the translator: Is that your name and handwriting?

You do swear that you well understand the French language (*or other language in which the affidavit is written*) and that the above written is a true translation into the English language of the affidavit of A.B. in the French (*or as may be*) language thereunto annexed—So help you God.

C.D., of ——— was sworn at ———, that the above written is a true translation into the English language of the affidavit of A.B. in the French (*or as may be*) language thereunto annexed; and affixed together at the top thereof, under the (notarial) seal of the said C.D., with his name thereto subscribed: C.D.

Before me, etc.

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325. OATH ON EXAMINATION OR COMMISSION.

You swear that you shall true answer make to all such questions as shall be asked you without favour or affection to either party, and therein you shall speak the truth, the whole truth and nothing but the truth—So help you God.

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326. AFFIDAVIT OF SERVICE—GENERAL.

I, A.B., of the ——— of ——— in the County of ———, (*addition or occupation*), make oath and say:—

1. That I did on the ——— day of ———, 19—, personally serve C.D. the above-named defendant (*or as the case may be*) at ——— with a true copy of the ——— hereunto annexed, by delivering such copy to and leaving the same with him the said C.D.

Sworn, &c.

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327. AFFIDAVIT OF SERVCE

Of a Notice of Motion.

1. That I did on ——— the ——— day of ———, 19—, (before four o'clock in the afternoon (*or as may be*) of that day) personally serve (*describe the person or persons required to be served; as thus*):

A.B., the defendant (*or*, one of the defendants) in this action;

Or, A.B. who, by an order dated the ——— day of ———, 19—, has liberty to attend the proceedings in this action (*or* matter);

Or, A.B. in the order made in this action (*or* matter) dated the ——— day of ———, 19—, named:

Or, A.B. of (*residence and additions*);

Or, Mr. C.D. who acts as solicitor (*or* agent) in this action (*or* matter) for the plaintiff, &c.;

Or, each of the following defendants in this action:

1. A.B., one of the defendants in this action.

2. Mr. C.D. who acts as solicitor in this action for the plaintiff; and

3. Mr. G.H. who acts as agent in this action for L.M. who by an order dated, &c., has liberty to attend the proceedings herein;

(*Or as may be*) with the notice of motion now shewn to me and marked A. by delivering a true copy of the said notice to, and leaving the same with (*describe the person or persons on whom, and where, service was effected; as thus*:

The said A.B., personally at (*state where*) in the County of —

Or, the said A.B., personally at (*state where*) in the County of ———, and the said C.D., personally at, &c.;

Or, each of the following persons, that is to say: (1) the wife of the said A.B. at his dwelling house situate at (*state where*) in the County of;

(2) The clerk of the said C.D. at the office of the said C.D. situate at, &c., and (3) the servant of the said E.H. at the address for service of the said G.H. situate at, &c.)

(*Where service effected on a solicitor in the action who has refused to give an admission, add*): at the time of effecting such service as aforesaid, I demanded of the said A.B. an admission of such service, but he refused to give any such admission.

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328. AFFIDAVIT OF SERVCE

Of Subpœna.

1. That I did on the ——— day of ——— at ———, personally serve R.S. and F.G. named in the annexed writ of subpœna now shewn to me and marked A. with the said annexed writ of subpœna in this cause, by delivering to and leaving with each of them, the said R.S. and F.G. a true copy of the said subpœna.

2. At the time of such service I paid to the said R.S. and F.G. the sum of ——— each as and for their witness fees in this cause.

3. To effect such services I necessarily travelled ——— miles.

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329. AFFIDAVIT OF SERVICE BY POST.

1. On ——— day the ——— day of ———, 19—, I served ——— with the (*notice or other document served*) now produced and shown to me marked "A" by posting a true copy thereof at the (*name of post office*) in a prepaid registered envelope addressed to the said ——— at (*state address as on the envelope*) being the address for service of the said ———.

2. I have affixed to the said (notice *or* other document served, marked " " the receipt given to me by the post office authorities for such prepaid registered envelope at the time of such posting as aforesaid.

3. To the best of my belief the time at which such prepaid registered envelope would be delivered in the ordinary course of post would be ——— of the clock in the forenoon (*or* afternoon, of ——— day the ——— day of ———, 19—.

---

330. AFFIDAVIT OF EXECUTION.

Of Bond or other instrument.

Ontario, County of ———. To wit: } I ———, of the ——— of ———, in the County of ——— (*addition or occupation*), make oath and say as follows:—

1. I was personally present and did see the within (*or* annexed) instrument duly signed, sealed and executed by C.D. and E.F., two of the parties thereto.

2. The said instrument was so executed by the said parties at ———.

3. I know the said parties.

4. I am a subscribing witness to the said instrument.

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331. AFFIDAVIT OF NON-PAYMENT BY PURCHASER.

Motion to Rescind Contract in Action for Specific Performance.

I have not, nor hath, nor have any person or persons by my order, nor to the best of my knowledge and belief, for my use, received the sum of ——— found due to me by the defendant C.D. by the judgment (*or* Master's report) made in this cause, nor any part thereof, nor any security or satisfaction for the same, but the whole amount thereof remains justly due and owing to me by the said defendant C.D.

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332. CERTIFICATE AS TO NOTARY PUBLIC.

By Clerk of County Court.

Dominion of Canada, Province of Ontario, County of ———. } I, ——— of the ——— of ——— in the County of ——— in the Province of Ontario, do hereby certify.

1. That I am the Clerk of the County Court of the County of ———, and that the said Court is a Court of Record in the Province of Ontario, having its proper Seal.

2. That ——— whose Official Seal, and signature as "———" appear on the annexed proof or acknowledgement, is, and was at the time of taking such proof or acknowledgement, a Notary Public duly appointed in and for the Province of Ontario, residing in the

said County of ———, that under the laws of Ontario he is entitled to administer oaths and take the proof or acknowledgement of Deeds, etc., and that his acts in such capacity are entitled to due credit.

3. That I know the said ——— and am acquainted with his handwriting and that the said signature is genuine.

Witness my Hand and the Seal of the said Court of the County of ———, at the ——— of ———, in the County of ——— this ——— day of ———, A.D. 19—.

Clerk of the County Court of the County of ———.

CHAPTER XV.

NOTICES OF MOTION.

333. NOTICE OF MOTION—CHAMBERS.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

Take notice that a motion will be made on behalf of ——— before the presiding Judge in Chambers (*or* the Master in Chambers, *or* the Local Judge of the High Court at ———, *or as the case may be*), at Osgoode Hall, in the City of Toronto (*or as the case may be*) on ——— day the ——— day of ———, 19—, at ——— o'clock in the ——— noon or so soon thereafter as the motion can be heard, for an order, &c.

And further take notice that in support of such motion will be read the pleadings and proceedings herein and the affidavits of ——— this day filed (*or* filed the day of ———, 19) and the exhibits therein referred to.

Dated this ——— day of ———, A.D. 19—.

Solicitor for the ———.

To C.D.,
Solicitor for the ———.

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334. NOTICE OF MOTION TO COURT.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

Take notice that a motion will be made on behalf of ——— before the presiding Judge in Court at Osgoode Hall, Toronto, on

——— day the ——— day of ———, 19—, at ——— o'clock in the forenoon, or soon thereafter as the motion can be heard, for an order that (*state the object of the intended application*) or for such other order as may seem just. (*In cases where it is necessary to set out grounds of the motion, add*: upon the following grounds, *stating them concisely.*)

And further take notice that in support of such motion will be read (*state the affidavits or other evidence to be used*).

Dated the ——— day of ———, 19—.

To ———. Solicitor for ———.

Solicitor for ———.

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335. NOTICE OF MOTION TO JUDGE AT TRIAL.

Take notice, that an application will be made on behalf of ——— to the presiding Judge at the next sittings of this Court for the trial of actions to be holden at the ——— of ——— on the ———.

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336. ORIGINATING NOTICE OF MOTION.

(*Rule 938.*)

IN THE HIGH COURT OF JUSTICE.

In the matter of the Estate of James Jenkins, late of the ——— of ———, in the County of ———, Banker deceased.

Take notice that a motion will be made on behalf of Jeremiah Smith and Samuel Jones, Executors of the last Will and Testament of the above-named James Jenkins (*or* by Sophia Ridley, a beneficiary under the Will of the said James Jenkins) before the presiding Judge in ——— at Osgoode Hall, Toronto, at the hour of ——— o'clock in the forenoon or so soon thereafter as the motion can be heard, for an order construing the Will of the said James Jenkins, and disposing of the questions which have arisen for determination in respect thereof, and that the following are the questions upon which the advice and order of the Court are desired:

1. Whether in the events that have happened the watch which was bequeathed by the Will of the said James Jenkins to J.S. belongs to the grandfather or to the niece of the said J.S., or forms a part of the residuary estate of the Testator.

2. Whether James Jenkins, the Testator's son took Lot A, Concession B, Township of C, under devise in the said Will in fee simple or as tenant in tail.

3. Whether the devise of $200 in the said Will to the Young Men's Christian Association of Aurora and Newmarket is to be paid out of the real or personal estate of the Testator (*and whatever other questions may be desired.*)

And further take notice that in support of the said motion will be read the Will of the said James Jenkins with the codicils thereto, and the affidavits of ——— with the exhibits therein referred to, and such further and other material as may be advised.

Dated, &c.

Solicitors for applicants.

To A..B..C..D..E..F..

Parties interested under the said Will.

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337. NOTICE OF MOTION.

To Set Aside Writ.

For an order that the writ of summons in this action and all subsequent proceedings therein and also the conditional appearance to the said writ of summons entered by the (said) defendant may be set aside (*if there are other defendants,* as against the said C.D.) on the ground that (*specify grounds, eg.,* the writ of summons was served out of the jurisdiction of this Honourable Court, indorsed with a claim which is not within any of the causes of action specified in Consolidated Rule 162; *or* the said writ of summons has no statement indorsed thereon of the nature of the claim made, or of the relief or remedy required in the action as required by the Consolidated Rules in that behalf; *or* the said writ has no claim indorsed thereon of the amount claimed by the plaintiff for debt or costs; *or* the said writ of summons has no address for service indorsed thereon; *or* the address for service indorsed on the said writ of summons is illusory or fictitious) and that the plaintiff may be ordered to pay the said defendant's costs of entering a conditional appearance and of this application.

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338. TO SET ASIDE ORDER.

Allowing Service out of Jurisdiction.

On behalf of the defendant C.D., that the order dated the ——— day of ———, made in this action whereby service of the writ of summons (*or* notice of the writ of summons) in this action on the defendant C.D. at ——— in the ——— of ———, out of the jurisdiction of this Honourable Court was allowed, may be discharged and that the service of the said writ (*or* notice of the said writ) and all subsequent proceedings in this action, (*if so,* and the judgment entered herein); and also the conditional appearance to the said writ of summons entered by the said defendant may be set aside (*if there are other defendants not moving,* as against the defendant C.D.) on the ground that the land (*or other properly describing it, which is the subject of the action*) which is the subject matter of this action is not, nor is any part thereof situate within the jurisdiction of this Honourable Court; *or* the land

(*or other property as may be*) affected by the deed (*or will or as may be*) which is the subject matter of this action, is not nor is any part thereof situate within the jurisdiction of this Honourable Court; *or* the contract which is sought to be enforced (*or* rescinded, *or* dissolved, *or* annulled, *or* for the breach whereof damages or other relief are or is demanded, *or as may be*) in this action was not made or entered into, nor has there been any breach thereof, within the jurisdiction of this Honourable Court; *or* the act (*or* thing) in respect whereof damages are sought to be secured in this action was not done within the jurisdiction of this Honourable Court; *or* the application for the said order was not supported by the evidence required by Rule 162 of the Consolidated Rules of the Supreme Court; *or* that defendant C.D. had not at the time of the said writ of summons any assets whatever within the jurisdiction of this Honourable Court.

And that the plaintiff may be ordered to pay to the said defendant C.D. his costs of entering a conditional appearance and his costs of this application.

---

339. TO SET ASIDE JUDGMENT BY DEFAULT.

That the judgment entered in this action on the ——— day of ———, 19—, (*where necessary*, and the writ of (execution) issued on such judgment on the ——— day of ———, 19—,) be set aside (as irregular in that, *here specify the irregularity, e.g.*, the writ of summons was not duly served on the defendant *or* the said judgment was entered before the expiration of the time limited by the writ of summons for the defendant to appear thereto) and that the defendant may be at liberty to appear and defend this action. (*Where the motion is on the ground for irregularity, add*: and that the plaintiff may be ordered to pay to the defendant his costs of this application).

---

340. TO STRIKE OUT PLEADING.

On behalf of the defendant (*or plaintiff*) that the statement of claim (*or counterclaim*) may be struck out on the ground that it discloses no reasonable cause of action (*or, as may be*) against the ——— (*or* that this action may be dismissed, and that the costs of the applicant of this action and of this application may be paid by the plaintiff.)

---

341. TO STRIKE OUT EMBARRASSING PLEADING.

That the statement of claim (*or as may be*) herein (*or* paragraphs numbered ——— in the statement of claim, *or as may be*) may be struck out as tending to embarrass the plaintiff (*or defendant*) and delay the fair trial of this action.

342. TO STRIKE OUT SCANDALOUS MATTER.

On behalf of the plaintiff (*or as may be the case*) that paragraphs Nos. ——— in the ——— of ——— (*indicating the scandalous matter*) filed on the day of ———, 19—, may be struck out as scandalous (and impertinent or irrelevant) and that the defendant on whose behalf the said affidavit was filed, may be ordered to pay the costs of and occasioned by such scandalous (and impertinent or irrelevant) matter and the costs of this application.

---

343. TO STRIKE OUT OR ADD PARTIES.

On behalf of the plaintiff (*or as may be the case*), that the name of ——— may be added as a plaintiff in this action, (*or* that the name of the above named ———, as a plaintiff in this action may be struck out, ——— *or*, that the name of the above named ——— as a plaintiff in this action may be struck out, and the name of ——— may be substituted therefor, ——— *or* that the name of ———, may be added as a defendant, *or* that the name of the above named ——— as a defendant to this action may be struck out) and that the proceedings herein may be amended accordingly.

---

344. TO SET ASIDE PROCEEDINGS

For Irregularity.

On behalf of the plaintiff for an order setting aside (the writ of fieri facias issued out of, &c., (*or as the case may be*), and all proceedings had thereon on the ground that the same is irregular, because (*state the grounds of irregularity intended to be relied on*).

---

345. TO COMPEL WITNESS TO PRODUCE DOCUMENTS.

On behalf of the ——— that E.F. of (*residence and addition*) in obedience to the *subpœna* served upon him in this cause, may be ordered to attend C.D., Esquire, one of the examiners of this Court (*or* C.D. the examiner specially appointed for the examination of witnesses in this cause) at his own expense, at such time and place as the said examiner shall appoint and then and there produce the several documents in the said subpœna specified (*or as may be*) and that the said E.F. may be ordered to pay the costs occasioned by his refusal to produce the said documents, and of this application.

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346. TO AMEND.

On behalf of the plaintiff (*or defendant*) that he may be at liberty to amend his writ of summons (*or statement of claim, or*

defence or counterclaim). *Indicate the amendments; either set them out or refer to the same thus*: in the manner shewn in the schedule hereunto annexed.

---

347. FOR LEAVE TO DEFEND.

On the part of the defendant A.B., that the note of default of pleading entered herein on the ——— day of ——— (*or* the judgment herein, dated the ——— day of ———), may be vacated and set aside, and that the defendant A.B. may be at liberty to file a statement of defence herein.

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348. TO DISMISS ACTION FOR WANT OF PROSECUTION.

On behalf of the defendant A.B., that this action may be dismissed (*if there are other defendants, add*: as against the said defendant A.B.) for want of prosecution; with costs to be paid by the plaintiff to the said defendant.

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349. TO STAY OR DISMISS ACTION

As Frivolous or Vexatious.

On behalf of the defendant (*or* of the defendant C.D.) that all proceedings in this action may be stayed (as against the applicant, *or* that this action may be dismissed), on the ground that it is frivolous and vexatious and that the plaintiff may be ordered to pay to the applicant his costs of this action and this application.

---

350. TO CONSOLIDATE ACTIONS.

(*Title of each action.*)

On behalf of C.D., the defendant in each of the above mentioned actions (*or* A.B. plaintiff in the first (*or* second) above mentioned action) that the above mentioned actions may be consolidated and may henceforth be carried on as if they were one action; and that all necessary and proper directions may be given as to the persons who shall be plaintiffs and as to persons who shall be defendants in such consolidated action, and that the costs of all parties of all the above mentioned actions, including the costs of this application, may be costs in such consolidated action.

---

351. TO CONSOLIDATE ACTIONS

Brought Against Different Defendants on the Same Contract.

(*Title of each action.*)

On behalf of the defendants in the above mentioned actions, that these actions may be consolidated and proceed as one action, and that the plaintiff may be ordered to pay to the defendants their costs of this application.

352. TO STAY PROCEEDINGS.

When Several Actions Raise the Same Question.

(*Title of each action.*)

On behalf of the defendants in all the above mentioned actions that all further proceedings in the above mentioned actions of A. v. C., A. v. D., and A. v. E., may be stayed until after judgment has been entered in the first above mentioned actions of A. v. B. the defendants in the several other above mentioned actions, submitting to be bound and concluded by the judgment in the said action of A. v. B.

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353. TO STAY PROCEEDINGS.

Where Plaintiff Does Not Sue by Committee or Next Friend.

On behalf of the defendants that all proceedings in this action in which the plaintiff being a person of unsound mind so found, does not sue either by committee of his estate, or by a next friend (*or* being a person of unsound mind, not so found does not sue by a next friend) may be stayed.

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354. TO PROCEED IN ONE ACTION AND STAY OTHERS.

(*Title of each action.*)

On behalf of the plaintiffs in all the above mentioned actions respectively, that (the plaintiffs in all the above mentioned actions respectively other than the action of A. v. B. undertaking that the said action of A. v. B. shall be treated as a test action, and shall decide their rights in all the other above mentioned actions respectively as against themselves; and the plaintiff in the said action of A. v. B. undertaking that the said actions shall be prosecuted with due diligence) the time for delivery of the statement of claim in all the above mentioned actions, except the action of A. v. B. may be enlarged until ——— days next after judgment shall have been given in the said action of A. v. B. on the trial thereof, or until further order.

---

355. TO STAY PROCEEDINGS

In Concurrent Creditors' Suits After a Judgment in One.

(*Title of Both Suits.*)

On behalf of A.B. the plaintiff in the first mentioned cause (*or* C.D. the defendant in each of the above mentioned causes *or as may be*):

1. That all further proceedings in the second mentioned cause may be stayed; and that the costs of E.F. the plaintiff therein, up to the time he had notice of the judgment in the first mentioned

cause dated the ——— of ———, 19—, including his costs of this application, may be taxed.

Where assets admitted: 2. That such costs may be paid to the plaintiff E.F. by the defendant C.D. (*or as may be*) out of the assets of G.H. the testator in the pleadings named; and that the plaintiff E.F. may be at liberty to go in under the said judgment, and prove his claim against the assets of the said G.H.

Or where assets denied: 2. That the plaintiff E.F. may be at liberty to go in under the said judgment, and prove his claim, and the amount of his said costs, against the assets of the said G.H.

3. That the costs of the defendant C.D. of the second mentioned action, and the costs of the plaintiff A.B. and the defendant C.D. (*or as may be*), of this application may be costs in the first mentioned action.

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356. TO STAY PROCEEDINGS ON A MORTGAGE.

On Payment of Arrears.

That all proceedings may be stayed in this action on payment by the defendant C.D. to the plaintiff of all arrears (of principal, *if any*, and of interest) now due upon the mortgage in the (writ of summons) mentioned (other than such as have become due by virtue of the acceleration clause in the mortgage) and costs to be taxed, and for that purpose that an account may be taken of the amount of (principal and) interest now due and in arrear, and that the costs of the plaintiff may be taxed.

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357. TO APPOINT NEXT FRIEND.

In Lieu of One Incapacitated or Removed.

On behalf of the infant plaintiff A.B. of (*residence and addition*), his next friend for the purpose of this application, that he may be at liberty (*if before judgment*) to amend his statement of claim by inserting the name of the said A.B. as his next friend in lieu of C.D. who is incapacitated from acting (*or* who by an order dated the ——— day of ———, 19—, has been removed): (*or, if after judgment*) to name the said A.B. as his next friend in all future proceedings in this action in lieu of C.D. who is incapacitated, &c.

---

358. TO APPOINT A REPRESENTATIVE.

On behalf of the plaintiff (*or as may be*) that the defendant A.B. (*or* A.B. of (*residence and addition*) may be appointed to represent the estate of C.D. deceased (*or* the respective estates of C.D. and E.F. deceased) in the writ of summons (*or* statement of claim) named (*or as may be*) for the purpose of this action.

359. TO DISPENSE WITH A REPRESENTATIVE.

On behalf of the plaintiff (*or as may be*) that this action and the proceedings therein may be carried on and prosecuted notwithstanding the absence of any person representing the estate of A.B. (*or* the respective estates of A.B. and C.D.) deceased, in the plaintiff's writ of summons (*or* statement of claim) named (*or as may be*).

---

360. TO APPOINT A REPRESENTATIVE

Of a Class.

For an order that ——— may be appointed to represent the heirs at law (*or next of kin*) of A.B. in the statement of claim mentioned, for the purpose of obtaining the judgment of the Court upon the questions arising upon the construction of the will of the said A.B.

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361. TO APPOINT ADMINISTRATOR AD LITEM.

On behalf of the plaintiff (*or as may be*) that A.B. or some other proper person may be appointed administrator ad litem of the estate and effects of (*the defendant C.D. or as may be*).

---

362. FOR FURTHER DIRECTIONS.

For judgment in favour of the plaintiff against the defendant for the amount found due by the report of the Local Master of the Supreme Court of Judicature for Ontario at ——— dated the ——— day of ———, 19—, and for such further orders and directions as to the Court may seem fit and proper, and for the costs of this action.

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363. TO RESTRAIN DEFENDANTS FROM ACTING AS DIRECTORS

For an order restraining the above-named individual defendants from intermeddling as or in the alleged capacity of a board of directors of the defendant company, or otherwise, in the affairs of the defendant company and from taking or attempting to take possession of any property of the defendant company and from taking or attempting to take any proceedings whatsoever in the High Court of Justice or elsewhere in the name of the company and from otherwise in any manner usurping the functions of directors or agents of the defendant company until the trial of this action, with leave to the said individual defendants to apply to be released from the terms of any order that may be made on this application upon satisfactory evidence (that the terms of the judgment and orders in the action pending in this Court, in which ——— is

plaintiff and ——— defendant, have been complied with); and for an order appointing the said ——— to act in the meantime in the name of and as for the said company, and for such further order as to this Court may seem meet.

364. FOR VESTING ORDER.

On behalf of A.B. of ——— the purchaser of the lands (*or* of parcel number (one) of the lands) sold in this cause (*if more than one sale, add*: at the sale had herein on the ——— day of ———, 19—,) for an order vesting the said lands, being (*describe them as they are intended to be described in the vesting order*) in the said A.B. his heirs and assigns for all the estate, right, title and interest of the plaintiff and the defendant (*or as may be*) therein and thereto.

365. TO DISALLOW BOND.

For an order disallowing the bond filed by the receiver as security for the performance of his duties upon the grounds:

1. The bond is not for a sufficient amount.
2. The bond is not in proper form.
3. The sureties are not proper sureties.
4. The sureties have not justified.
5. It is not shewn that the bond is properly executed.
6. It is not shewn that the bond is within the competence of the company.

366. TO SET ASIDE SATISFACTION PIECE.

For an order vacating and setting aside the satisfaction piece filed herein on the ——— day of ——— instant, and for a mandatory order that the above-named defendants do pay into Court, or into a chartered bank at ———, in the Province of Ontario, as may be ordered, the sum of $———, ordered by the judgment in this action to be paid by them to the defendants, The ——— Company, Limited.

367. FOR INQUIRY AS TO TITLE.

Action for Specific Performance.

On behalf of the plaintiff, that an inquiry may be directed whether a good title can be made to the hereditaments comprised in the agreement dated the ——— day of ———, 19—, in the plaintiff's writ (*or* statement of claim) mentioned; and if a good title can be made, then a further inquiry when it was first shewn that a good title could be made.

368. FOR AN ACCOUNT.

For an order that an account may be taken (*specify the account required in accordance with the claim indorsed on the writ, for example*:—That an account (with all necessary and proper directions) may be taken by the Master in Ordinary (*or as may be desired*) of the partnership dealings between the plaintiff and defendant under the articles of partnership dated the ——— day of ———, 19—, mentioned in the statement of claim herein (and that the said partnership may be dissolved.)

---

369. ANOTHER FORM.

For an order that the following accounts and inquiries may be directed to be taken (*set out thus*):—

1. An account of, &c.
2. An inquiry whether, &c.

And that such accounts and inquiries may be directed to be made and taken before (*specifying the Master or Official Referee*).

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370. UNDER VENDORS AND PURCHASERS ACT.

10 Edw. VII. (1910), Ch. 58.

IN THE HIGH COURT OF JUSTICE.

IN THE MATTER of The Vendors and Purchasers Act.
AND IN THE MATTER of a contract of sale of lands dated the ——— day of ———, 19—.

Between A.B., Vendor,
and
C.D., Purchaser.

Take notice that a motion will be made on behalf of A.B. the above named vendor (*or* C.D. the purchaser *as the case may be*) before the presiding Judge in Chambers at Osgoode Hall in the City of Toronto on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the motion can be heard, for an order declaring that the objections to title made by the said purchaser in writing dated the ——— day of ———, 19—, have (*or* have not) been fully answered by the vendor, and that the same do not (*or* do) constitute a valid objection to the title and for an order directing the purchaser to pay (*or* the Vendor to repay) the sum of $——— (*or as the case may be*), or for such further or other order as may be just.

371. HUSBAND AND WIFE.

Dispute as to Title.

IN THE HIGH COURT OF JUSTICE (*or* IN THE COUNTY COURT OF THE COUNTY OF ———.)

IN THE MATTER of The Married Women's Property Act.

Between A.B., Applicant,

and

C.D., Respondent.

Take notice that a motion will be made on behalf of A.B., the wife of E.B. of the ——— of ———, before the Judge presiding in Chambers at Osgoode Hall in the City of Toronto (*or* before the Judge of the County Court of the County of ——— at his Chambers in the City of ———) on ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the motion can be heard, for an order declaring that the said A.B. is entitled to (*here recite the property*) and to the possession thereof; or for such further or other order as may be deemed right.

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372. TO STRIKE SOLICITOR OFF THE ROLL.

IN THE HIGH COURT OF JUSTICE.

IN THE MATTER of ——— of the ——— of ——— in the County of ——— and Province of Ontario, Gentleman, a solicitor of the Supreme Court of Judicature for the Province of Ontario.

Take notice that an application will be made before the presiding Judge in Court on behalf of C. of the ——— of ——— in the County of ———, Widow, on ——— day the ——— day of ———, A.D. 19—, at the hour of ten o'clock in the forenoon or so soon thereafter as the motion can be heard for an order to strike the above named ——— off the roll as a solicitor of the Supreme Court of Judicature for the Province of Ontario, or in the alternative that the said ——— be ordered to pay to her forthwith the amount due to her and in his hands as solicitor.

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373. PETITION TO STRIKE SOLICITOR OFF ROLL.

IN THE HIGH COURT OF JUSTICE.

IN THE MATTER of A.B., a solicitor of the Supreme Court of Judicature for Ontario.

To the Honourable the Judges of the High Court of Justice:—

The humble petition of the above-named A. B., of (*place of business*),

Sheweth as follows:—

1. In the month of ———, 19—, the above-named A.B. was duly admitted a solicitor of the Supreme Court of Judicature for

Ontario (*or as the case may be*), and he is now on the roll of the solicitors thereof.

2. The said A.B. was employed by the petitioner as his solicitor (*shew for what purpose, e.g.*, to collect the amount due to the petitioner upon a certain mortgage made by one C.D.)

3. The said A.B. accordingly took proceedings and recovered the amount due upon such mortgage, amounting to the sum of $———.

4. On the ——— day of ———, 19—, the petitioner procured an order of this Honourable Court in the usual terms for the delivery of the said A.B.'s bill of costs against the petitioner, and for the taxation of the same, and for the payment by the said A.B. of any balance which might appear to be due from him to the petitioner.

5. The said A.B., pursuant to the said order, delivered to the petitioner his bill of costs, and the same has been duly taxed by Mr. ———, one of the taxing officers of the Supreme Court, who has certified that there is a balance of $——— due to the petitioner from the said A.B. in respect of the amount so recovered from the said C.D. by the said A.B. for the petitioner, after deducting the said A.B.'s costs and all other sums with which the said A.B. is entitled to charge the petitioner.

6. The said taxing officer's certificate of the amount due to the petitioner as aforesaid, has been duly served upon the said A.B., and the petitioner has demanded payment of the said amount, but the said A.B., without any cause, wholly neglects and refuses to pay the same to the petitioner, although the time limited by the said order for payment of the said sum has elapsed.

The petitioner therefore humbly prays:

1. That the said A.B. may be struck off the roll of solicitors of the Supreme Court of Judicature for Ontario, and may be ordered to pay to your petitioner his costs of this matter.

2. Or that such other order may be made in the premises as to this Honourable Court shall seem just.

And the petitioner will ever pray, etc.

CHAPTER XVI.

ORDERS.

374. ORDER IN CHAMBERS.

IN THE HIGH COURT OF JUSTICE.

The Honourable the Chief Justice of the Common Pleas, *or* The Honourable Mr. Justice ——— / In Chambers, *or* The Master in Chambers, (*as the case may be*). } ———day, the ——— day of ——— A.D. 19—.

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of ——— and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ——— (*where any recital is necessary,* and it appearing that, &c., &c.), and upon hearing what was alleged;

1. It is ordered that ———.
2. And it is further ordered that the costs of this application be ———.

375. ORDER IN COURT.

IN THE HIGH COURT OF JUSTICE.

The Honourable the Chief Justice of the King's Bench, (*or as the case may be.*) } ——— day the ——— day of ———, A.D. 19—.

Between A.B., &c., Plaintiffs,
and
C.D., &c., Defendants.

Upon motion made this day unto this Court on behalf of the ———, and upon hearing read ———, and upon hearing counsel for ———, (*where necessary add* no one appearing for ———, though duly served with notice as by affidavit of ——— appears), and upon hearing what was alleged;

1. This Court doth order ———.
2. And this Court doth further order ———.

376. ORDER DISMISSING MOTION.

1. It is ordered that the said application be and the same is hereby dismissed, (*if the dismissal is with costs, add*) with costs to be paid by the ——— to the ——— forthwith after taxation thereof.

---

377. ORDER TO CHANGE SOLICITOR.

Issued on Praecipe. (*Rule 335.*)

——— day the ——— day of ———, 19—.

Upon the application of, etc.,

1. It is ordered that he be at liberty to change his solicitor in this cause by making ——— his solicitor in the place and stead of ——— his present solicitor.

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378. ORDER FOR TRIAL OF ACTION.

In County Court. (*Rul. 561.*)

IN THE HIGH COURT OF JUSTICE.

(*Formal parts.*)

1. It is ordered that this action be tried before the County Court of the County of ———.

2. And it is further ordered that the costs of this application be ———.

---

379. ORDER TO AMEND.

1. It is ordered that the plaintiff be at liberty to amend the writ of summons in this action by ———, and that the costs of this application be ———.

---

380. ORDER FOR LEAVE TO DEFEND.

(*Rule 606.*)

1. It is ordered that the defendant be at liberty to defend this action by delivering a statement of defence within ——— days after delivery of the plaintiff's statement of claim.

2. And it is further ordered that the costs of this application be ———.

---

381. ORDER FOR LEAVE TO DEFEND.

As to Part on Payment into Court, and as to Residue Unconditionally. (*Rule 606.*)

1. It is ordered that if the defendant pay into Court within a week from the date of this order the sum of $——— he be at liberty to defend this action as to the whole of the plaintiff's claim.

2. And it is further ordered that if that sum be not so paid the plaintiff be at liberty to sign judgment for that sum, and the defendant be at liberty to defend this action as to the residue of the plaintiff's claim.

3. And it is further ordered that in either event the statement of defence be delivered within ——— days after delivery of the plaintiff's statement of claim.

4. And it is further ordered that the costs of this application be ———.

---

382. ORDER FOR LEAVE TO DEFEND.

On Payment into Court. (*Rule 606.*)

1. It is ordered that if the defendant do pay into Court to the credit of this action subject to further order within a week from the date of this order the sum of $———, he be at liberty to defend this action by delivering a statement of defence within ——— days after delivery of the plaintiff's statement of claim, but that if that sum be not so paid the plaintiff be at liberty to sign final judgment for the amount indorsed on the writ of summons, with interest, if any, and costs.

2. And it is further ordered that in either event the costs of this application be ———.

---

383. ORDER ALLOWING FURTHER DEFENCE.

Arising After Delivery of Statement of Defence.

Upon the application of the defendant, in the presence of the solicitor for the plaintiff, and upon reading, etc. ———, and upon hearing what was alleged, etc.———, and it appearing that since the delivery of the statement of defence herein (*or the time limited for the statement of defence*), further grounds of defence have arisen;

1. It is ordered that the defendant be at liberty, within ——— days from the date of this order, to deliver a further statement of defence setting forth the same.

---

384. ORDER TO TAKE PLEADINGS OFF FILE.

1. It is ordered that the pleadings and all other documents filed in this action be taken off the file of the Court and delivered up to the parties on whose behalf the same respectively were filed, or to their solicitors.

(*This form can be adapted to a case where affidavits only have been filed.*)

385. ORDER DISMISSING ACTION.

For Want of Prosecution. (*Rule 432 et seq.*)

1. It is ordered that this action be and the same is hereby dismissed for want of prosecution, with costs, including the costs of this application, to be paid to the defendant by the plaintiff, forthwith after taxation.

---

386. ORDER CONSOLIDATING ACTIONS.

(*Style of All Actions.*)

1. It is ordered that all proceedings in the action secondly above mentioned be stayed, and that the said action be and the same is hereby consolidated with the action firstly above mentioned, so however that it shall not be necessary to amend the pleadings in either of the said actions, but the pleadings in the said actions shall be entered upon one record and the said actions shall be tried and disposed of as if the defendant in the said firstly mentioned action had set up by way of counterclaim therein the claim set forth in the statement of claim in the said secondly mentioned action.

2. And it is further ordered that the costs of the said secondly mentioned action up to the date of and including this order be costs in the consolidated action.

3. And it is further ordered that the plaintiff in the said firstly mentioned action do have the conduct of the consolidated action.

4. And it is further ordered that the said consolidated action be tried at the next sittings for the trial of actions to be held at the Town of ———.

---

387. ORDER TO CONTINUE PROCEEDINGS.

Issued on Praecipe. (*Rule 396.*)

Upon the application of ———, alleging that since the ——— in this action and about the ——— day of ———, A.D. 19—, the above named ——— departed this life, having (*recite facts showing who are the legal representatives*), who are now the legal representatives of the said ———; and further alleging that it is desirable or necesary that this action should be continued at the suit of ——— as parties plaintiffs thereto against ——— as party defendant thereto:

1. It is ordered that this cause may be continued at the suit of ——— as parties plaintiff thereto against ——— as party defendant thereto by order to proceed, and that the same and all proceedings therein do stand in the same plight and condition as they were in at the time of the ——— as aforesaid.

ALLEGATIONS IN ORDER TO CONTINUE PROCEEDINGS.

(*a*) ASSIGNMENT.

Alleging that on the ——— day of ———, 19—, the plaintiff (*or as may be*) by deed assigned and conveyed all his estate and interest in the lands and premises in question in this action to E.F., who is now entitled to the same.

(*b*) INSOLVENCY.

Alleging that on the ——— day of ———, 19—, the plaintiff (*or as may be*) made an assignment for the benefit of creditors under The Act respecting Assignments and Preferences by Insolvent Persons, to E.F.

(*c*) LUNACY AND APPOINTMENT OF COMMITTEE.

Alleging that on the ——— day of ———, 19—, the plaintiff (*or as may be*) was found lunatic by inquisition (*or as may be*), and E.F. has been appointed, and is now, the committee of his estate.

(*d*) MARRIAGE OF FEMALE PLAINTIFF.

Alleging that on the ——— day of ———, 19—, the plaintiff A.B. intermarried with and she is now the wife of E.F. of, &c.

---

388. ORDER APPOINTING ADMINISTRATOR AD LITEM.

(*Rule 195.*)

1. It is ordered that ———, of ———, in the County of ———, (*occupation*), be and he is hereby appointed to represent the estate of the late ———, deceased, for the purpose of this action, and that the administration of the real and personal estate and effects, rights and credits of the said ———, in his lifetime of the ———, of ———, in the County of ———, (*occupation*), *deceased*, who died at ———, in the County of ———, aforesaid on or about the ——— day of ———, 19—, and who at the time of his death had a fixed place of abode at ———, be and the same is hereby granted to the said ———, limited for the purpose only of attending, supplying, substantiating and confirming the proceedings already had or which may hereafter be had in this action; and to obey and carry into execution all orders and directions of this Court relating to this action until judgment shall be entered herein and the same carried into execution, and the execution thereof fully completed, but no further or otherwise or in any other manner whatsoever.

Add if necessary: 2. And it is further ordered that the giving of security by the said administrator for the due fulfilment of his duties as such administrator be and the same is hereby dispensed with.

389. ORDER FOR REPRESENTATION.

Of Next of Kin and Beneficaries. (Rule 201.)—Motion Adjourned from Chambers into Court. (Rule 367.)

IN THE MATTER of the Estate of G. H., Deceased.
Between A.B. and C.D., Plaintiffs,
and
E.F., Defendant.

Upon motion this day made unto this Court on behalf of ———, in presence of counsel for the ———, for an order adding all the next of kin and beneficiaries as parties to this action, or declaring that the next of kin are sufficiently represented by the defendant herein and the beneficiaries by the plaintiffs, or adding some more of the next of kin and beneficiaries as parties, and otherwise as asked in the notice of motion, and the said motion having come on before ———, Esquire, Official Referee, sitting for the Master in Chambers, and he having enlarged the said motion into Court, upon hearing read the affidavits of ——— and of the defendant, and upon hearing counsel for the plaintiffs and the defendant, and it appearing that the beneficiaries under the will in question in this action are very numerous being upwards of sixty in number, that it would be difficult and expensive to make them all parties hereto, and that the making them parties would delay the trial of the action, and it also appearing that the plaintiffs are the executors named in the will in question and are also beneficiaries under the same in like interest with the other beneficiaries thereunder:

1. This Court doth declare that the beneficiaries under the said will are sufficiently represented in this action by the plaintiffs, and that the plaintiffs are to be considered as representing and do represent such beneficiaries in this action, and doth order the same accordingly.

2. And it appearing that the next of kin and others interested in the estate in the event of the will and codicil in the statement of claim mentioned being held invalid are numerous, that it would be difficult and expensive to make them all parties hereto, and that it would delay the trial of this action to so add them, and that the present defendant is in the same interest with the next of kin and other persons interested in the said estate in the event aforesaid, this Court doth further order that the defendant, one of the next of kin and of the class entitled in case of the will and codicil being held invalid, do and he is hereby authorized to defend this action on behalf of and for the benefit of all the said next of kin and other persons so interested.

3. And this Court doth further order that liberty be reserved to any such beneficiaries, next of kin or other persons interested, to apply to be added as parties to this action, if so advised.

4. And this Court doth further order that a copy of this order be sent forthwith by post by the plaintiffs addressed (postage prepaid) to each of the beneficiaries, next of kin and other persons who may be so interested, whose addresses may be known to the plaintiffs or whose addresses in writing may be furnished to the plaintiffs' solicitors by the defendant or his solicitor.

5. And this Court doth further order that the costs of this application be costs in the cause.

---

390. ORDER APPOINTING REPRESENTATIVE.

Where One of the Defendants Cannot be Found.

1. This court doth order that ——— be and he is hereby authorized to defend this action on behalf of and for the benefit of the defendant ———, and that the said defendant ———, if living, and his heirs, executors, administrators and assigns if he be dead, be bound by the result of this action as though he or his representative had been before the court throughout the action.

2. And this court doth further order that the costs of this motion be ———.

---

391. ORDER CALLING ON SOLICITOR

To Answer Charge of Improperly Retaining Moneys.

IN THE MATTER of Mr. ——— one of the Solicitors of the Supreme Court of Judicature for Ontario.

Whereas in an action now or recently pending in this Court between A.B., plaintiff, and C.D., and E.F. and G.H. infants under the age of 21 years, defendants, the above named Mr. ——— acted as solicitor for the above named plaintiff:

And whereas upon perusal of the report on sale therein, the order made therein dated the ——— day of ———, 19—, the affidavit of ——— and the Accountant's certificate filed, and it appearing that the said Mr. ——— as such plaintiff's solicitor received the sum of $——— in respect of the purchase money of a portion of the lands and premises sold in the said action on or about the ——— day of ——— last past, and that he has not paid the same into Court:

And whereas the Official Guardian appearing for the said infant defendants in the said action has brought to the notice of this Court the non-payment into Court of the said moneys so received by the said Mr. ———.

1. This Court doth order that the said Mr. ——— do at Osgoode Hall in the City of Toronto on ——— the ——— day of ———, 19—, at ——— o'clock in the forenoon, or so soon thereafter as the matter can be heard, answer the matters in the said papers and proceedings appearing, and in case he should fail to make

satisfactory answer to the same that he do then and there show cause unto this Court why his name should not be struck off the roll of solicitors for the Supreme Court of Judicature for Ontario.

392. ORDER FOR NAMES OF PARTNERS.

(*Rules 144, 222.*)

1. It is ordered that the defendants do furnish the plaintiff with a statement in writing, verified by affidavit, setting forth the names of the persons constituting the members or co-partners of their firm.

393. ORDER AS TO SPECIAL MODE OF SERVICE

Or Dispensing with Service.

1. It is ordered that service of an office copy of the judgment (*or* order) dated the ———, 19—, together with a copy of this order upon A.B. of, &c., be deemed good service upon C.D., E.F. and G.H., and the said defendants are to have ——— days from the day of such service within which to move, to add to, vary or set aside the said judgment.

Or, that publication of the said judgment (*or* order) and of the indorsement prescribed by the Consolidated Rules in this behalf, addressed to L.M., and of a copy of this order in the newspaper called the ———, published at ———, be deemed good service of such judgment (*or* order) on the said L.M.; and the defendant L.M. is to have, &c. (*continue as in par. 1.*)

Or, that service of an office copy of the said judgment (*or* order) upon S.T. by sending such an office copy, indorsed with the memorandum prescribed by Consolidated Rules in that behalf through the post office, in a prepaid letter, addressed to him at ———, may be deemed good service of such judgment (*or* order) on the said S.T.; and the defendant S.T. is to have (*continue as in par. 1.*)

Or, that service of the said judgment (*or* order) on W.Y. be dispensed with.

394 ORDER TO SERVE OFFICE COPY OF JUDGMENT.

(*Under Rule 203.*)

Whereas in proceeding under the judgment in this cause bearing date the ——— day of ———, 19—, it appears that A.B. would, but for Rule 203 of the Consolidated Rules of the the Supreme Court of Judicature for Ontario be a necessary party to this action, and ought to be served with the judgment herein, pursuant to said Rule 203.

1. It is ordered that the said A.B. be served with an office copy of the said judgment indorsed with the notice referred to in the said Rule, and also with a copy of this order.

395. INDORSEMENT ON OFFICE COPY.

(*Rule 203.*)

To ——— (*the person upon whom service is to be made*).

Take notice, First, that from the time of service of this notice you (*naming the party, or (where the notice is directed to be served on some person for an infant or person of unsound mind)* X.Y. (*naming the infant or person of unsound mind*) an infant *or* a person of unsound mind) will be bound by the proceedings in this cause in the same manner as if you (*or* the said infant *or* person of unsound mind) had been originally made a party, unless you (*or* the said infant *or* person of unsound mind) within fourteen days after the service hereof apply to the Court to add to, vary or set aside the within judgment (*or* order). And secondly, that you (*or*, the said infant *or* person of unsound mind) may upon service of notice upon the plaintiff attend the proceedings under the within judgment (*or* order).

A.B. ——— of the ———,
in the County of ———,
Plaintiff's solicitor.

---

396. ORDER ADDING A PARTY.

(*Under Rule 659.*)

Whereas, in proceeding under the judgment (*or* order) in this cause, bearing date, &c., it appears that A.B. ought to be made a party to this action, and be enabled to attend the proceedings before me.

1. It is ordered that he be made a party defendant to this cause; and for that purpose it is ordered that he be served with an office copy of the said judgment (*or* order) indorsed with the notice set forth in Form 75 referred to in Rule 660 of the Consolidated Rules of the Supreme Court of Judicature; and also with a copy of this order.

---

397. INDORSEMENT ON ORDER.

(*Rule 660.*)

To A.B., (*the person upon whom service has been directed*).

If you wish to apply to discharge the within order or to add to, vary, or set aside, the judgment in this cause, you must do so within fourteen days from the service hereof. (*When the order fixes a time for the further proceedings, add*): And, if you fail to move to discharge the said order or to add to, vary, or set aside the judgment, and fail to attend at the time and place appointed by the said order, either in person or by your solicitor, such order will be made and proceedings taken, in your absence, as may seem

just and expedient; and without any further notice you will be bound by the judgment, and the further proceedings in the cause, in the same manner as if you had been originally made a party.

Plaintiff's solicitor.

398. INDORSEMENT ON ORDER ADDING PARTIES.

(*Rule 399.*)

On Change of Interest.

Take notice that if you desire to discharge this order you must apply to the Court for that purpose within 14 days after the service hereof upon you. The statement of claim in this action is filed in the office of the ——— at ——— (*and if the service is after a judgment directing a reference to a Master or other officer, add*): and the reference under the judgment in this cause is being prosecuted in the office of the ——— at ———.

Plaintiff's solicitor.

399. ORDER FOR DISCHARGE OF MORTGAGE.

Upon hearing the solicitor for the said applicant and upon reading the certificate of the accountant and the mortgage given by the applicant to ——— and dated ——— day of ———, 19—.

1. It is ordered that the said mortgage be discharged upon a proper certificate of dscharge being tendered for that purpose.

400. ORDER TO DELIVER UP MORTGAGE

For Suit Thereon.

1. It is ordered that the Accountant of the Supreme Court of Judicature for Ontario do deliver up to ——— the mortgage made herein by ——— to the said Accountant dated the ——— day of ———, 19—, for the purpose of bringing action to recover the amount overdue and unpaid upon the said mortgage, and that the said ——— be at liberty to use the name of the said Accountant as plaintiff in the action to be brought to recover the amount due on the said mortgage, upon the said ——— giving to the said Accountant proper indemnity therefor to be settled in Chambers.

401. ORDER TO DISCHARGE OR VARY ORDER.

1. It is ordered that the order of ——— in this action dated the ——— day of ———, 19—, be discharged (*or* varied by ———.)

2. And it is further ordered that the costs of this application be ———.

402. VESTING ORDER.

Upon the application of ——— of the ——— of ——— in the County of ——— (*occupation*) the purchaser at the sale herein of the lands hereinafter described, upon reading the judgment and report on sale herein and (*as may be the case*) and upon hearing the solicitor for the applicant and for the (*the vendor*) and upon hearing what was alleged.

1. It is ordered that the following lands and premises being all and singular (*describing them*) be and the same are hereby vested in the said ———, his heirs and assigns for all the estate, right, title and interest, of (the plaintiff and defendants in this action) therein and thereto.

---

403. ORDER DISPENSING WITH CONCURRENCE OF HUSBAND.

THE MARRIED WOMAN'S REAL ESTATE ACT.

Upon the application of A.B. of ———, the wife of C.B. (*or* formerly of, &c.), I, ———, one of the Judges of the High Court of Justice for Ontario (*or as the case may be*) do, pursuant to The Married Woman's Real Estate Act, order that the said A.B. may, in the same manner and with the same effect as if she were a *feme sole*, and free from any estate of her husband by the curtesy, bargain, sell, and convey all or any part of her estate, title and interest of, in, to or out of all and singular (*describe the lands*).

Dated this ——— day of ———, 19—.

(*Signature of Judge.*)

---

404. ORDER RESCINDING CONTRACT.

Suit for Specific Performance by Vendor.

1. It is ordered that the contract in the pleadings mentioned be and the same is hereby rescinded.

2. It is further ordered that all further proceedings in this cause be stayed, save and except such as the plaintiff may be advised to take for the recovery of the costs already ordered to be paid, and the costs of this application.

3. It is further ordered that the defendant do pay to the plaintiff his costs of this application forthwith after taxation thereof.

---

405. ORDER FOR SALE BY PRIVATE CONTRACT.

(*Under Writ of Fi. Fa.*)

1. It is ordered that the sheriff of ——— be at liberty to sell the goods and chattels seized by him under the writ of fieri facias in this action by private contract.

406. ORDER FOR INSPECTION—MANUFACTURING PROCESS.

1. It is ordered that A. and B. of, &c., be at liberty at all seasonable times and as often as requisite, on giving (———) notice to the defendants to enter unto the business premises of the defendants where the manufacturing process of ——— is carried on by the defendants as stated in the statement of claim, and mentioned in the said affidavits or some of them, and to inspect and examine there the whole of the manufacturing process of ———, and to take, on paying the reasonable charges for the same, samples of such manufacture, and upon and during such inspection to make such observations as may be necessary and expedient for the purpose of obtaining full information and evidence of the mode of manufacture of ———.

CHAPTER XVII.

SPECIAL MOTIONS.

I. For Immediate Judgment.

(Under Rule 603.)

407. NOTICE OF MOTION.

In the High Court of Justice.

Between A.B., Plaintiff,

and

C.D., Defendant.

Take notice that a motion will be made on behalf of the above-named plaintiff before the Master in Chambers (*or as the case may be*) at Osgoode Hall in the City of Toronto on ——— day the ——— day of ———, 19—, at ——— o'clock in the ——— noon, or so soon thereafter as the motion can be heard, for an order that the above-named plaintiff be awarded judgment in this action for the amount endorsed on the writ of summons herein with interest (*if any*) and costs, or for such further or other order as may appear proper.

And take notice that upon and in support of the said application will be read the affidavit of the said plaintiff filed herein, a copy of which is served herewith, and the exhibit therein referred to.

Dated the ——— this ——— day of ———, 19—.

Solicitor for the plaintiff.

To C.D.

The above-named defendant,

And to

Messrs. E. & F.

His solicitors.

408. AFFIDAVIT IN SUPPORT.

I, A.B., of the City of ———, in the County of ———, merchant, make oath and say:

1. I am the above-named plaintiff and have knowledge of the matters in question.

2. This action was commenced on the ——— day of ———, 19—, by a Writ of Summons duly issued out of this Court in pursuance of the rules in that behalf.

3. The said Writ of Summons was specially endorsed with my claim as follows: (*Here set out the particulars of the plaintiff's claim as endorsed on the Writ of Summons.*)

4. On the ——— day of ———, 19—, the defendant entered an appearance in this action.

5. The defendant at the commencement of this action was, and still is, justly and truly indebted to me in the sum of $———, in respect of the matters set forth in the said endorsement on the said Writ of Summons.

6. (*Here set out concisely any admissions by letter or otherwise by the defendant of the amount due or any other material facts which will prove the indebtedness.*)

7. In my belief there is no defence to this action, and the appearance entered by the defendant herein has been entered for the purpose of delay only.

---

409. FINAL JUDGMENT.

On Motion Under Rule 603.

In the High Court of Justice.

The Master in Chambers
(*or as may be*).

——— day the ——— day of
———, 19—.

Between , Plaintiff,
and
, Defendant.

1. Upon the application of the plaintiff, upon reading the affidavit of ———, and upon hearing what was alleged.

2. It is ordered and adjudged that the plaintiff do recover against the defendant the sum of $——— and costs to be taxed.

(*Signature of Master in Chambers or other officer.*)

Judgment signed the ——— day of ———.

(*Signature of the officer signing judgments*).

The above costs have been taxed and allowed at $———, as appears by a taxing officer's certificate dated the ——— day of ———, 19—.

(*Signature of officer signing judgments.*)

II. For Particulars.

410. NOTICE OF MOTION.

On behalf of the defendant (*or* plaintiff) that the plaintiff (*or* defendant) do within ——— days deliver to the defendant (*or* plaintiff's) solicitor particulars (*or* further and better particulars) of (*state the material required*), and that all further proceedings may be stayed until the delivery thereof.

And further take notice that in support, etc.

Dated, &c.

411. ANOTHER FORM.

On behalf of the plaintiff that the defendant C.D. may be ordered to deliver a statement containing (further and better) particulars of the property to which said defendant limits his defence in this action, and that in default, the appearance entered for said defendant herein may be deemed an appearance to defend for the whole property mentioned therein, etc.

And further take notice, etc.

412. ORDER FOR PARTICULARS.

1. It is ordered that the plaintiff (*or* defendant) do deliver to the defendant (*or* plaintiff) an account in writing of the particulars of the plaintiff's claim in this action (*or* particulars of the ——— paragraph of the statement of claim *or* defence, stating in what *as may be ordered*) and that unless such particulars be delivered within ——— days from the date of this order all further proceedings be stayed until the delivery thereof (*or as may be ordered*).

2. And it is further ordered that the ——— do deliver his statement of ——— within ——— days after the delivery of the said particulars.

3. And it is further ordered that in default of delivering the said particulars the ——— be precluded from adducing evidence in support thereof at the trial herein.

4. And it is further ordered that the costs of this motion be ———.

413. ORDER FOR FURTHER AND BETTER PARTICULARS.

1. It is ordered that the defendant do within ——— days after service of a copy of this order upon his solicitor furnish and deliver to the plaintiffs or their solicitors herein further and better particulars of the times when and the places where (*in each particular case*) the said plaintiff A.B. practiced the misrepresentation

alleged and charged in the particulars delivered herein by the defendant on the ——— day of ———, 19—, and also showing therein the acts of misrepresentation so alleged and charged against him and intended to be relied upon by the defendant, and whether the alleged misrepresentation, in each particular case, was made orally or in writing.

2. And it is further ordered that the defendant be debarred from giving in evidence at the trial of this action in support of the defence of misrepresentation any acts of misrepresentation other than those of which he shall, within the time hereby limited, have furnished and delivered all the particulars hereinbefore ordered.

3. And it is further ordered that the time for delivery by the plaintiffs of their reply, joinder of issue or other necessary pleading, as they may be advised, be and the same is hereby extended until ——— days after particulars as hereinbefore directed shall have been furnished by the defendant, or until ——— days after the time hereinbefore limited for delivery of such particulars, in case default be made in delivery thereof.

4. And it is further ordered that the costs of this application be ———.

---

414. DEMAND FOR PARTICULARS.

(*Court and Style of Cause.*)

The defendants require particulars of the plaintiff's statement of claim as follows: (*here state the specific particulars required, as for example*) :—

1. Particulars of the defect and of the negligence alleged in paragraph 9 of the plaintiff's statement of claim.

2. Particulars of the 11th paragraph showing the name and position of the person referred to, and particulars also of the negligence therein alleged.

3. Particulars of the negligence alleged in paragraph 12 of the plaintiff's statement of claim.

4. Particulars showing the acts of omission alleged in paragraph 13.

5. Particulars showing the instructions referred to in paragraph 14 and showing by whom such instructions were given.

6. Particulars of the 15th paragraph showing in what manner the system of inspection was affected and what other proper and sufficient system should have been provided.

Dated, &c.

Defendant's solicitor.

415. PARTICULARS PURSUANT TO DEMAND.

1. In answer to paragraph 1 of the demand for particulars the plaintiffs say that the defect and negligence of the defendants consisted in so arranging their switches that it was unsafe for a workman to work on what is known as the "dead switch," while the adjacent switches are alive.

2. In answer to paragraph 2 of the demand the plaintiffs say that the names of the persons referred to are H.S., superintendent, and F.G., foreman, and their negligence consisted in not properly disconnecting "switch 23," before directing and ordering the deceased to work on said switch.

3. In answer to paragraph "3" of the demand the plaintiffs say that the negligence is practically the same as in the preceding paragraph.

4. In answer to paragraph "4" of the demand the plaintiffs say that the acts of omission were the acts of omission set out in answer to paragraph "2" of the demand.

5. In answer to paragraph "5" of the demand the plaintiffs say that the instructions referred to were the instructions given the deceased by H.S. and F.G. to clean the said compartment of "switch 23."

6. In answer to paragraph "6" of the demand the plaintiffs say that the particulars asked for do not arise out of paragraph 15, of the Statement of Claim.

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416. PARTICULARS PURSUANT TO ORDER.

Of Breaches of Covenant, etc., on a Forfeiture.

The following are the particulars of the breaches of covenant for which this action is brought, viz.: The non-payment of $——— for ——— quarter's (*or*, half-year's rent due on the ——— day of ——— last): The not repairing (*etc., as in the covenant for repairs, but specifying the non-repairs with sufficient particularity to inform the defendant of them*); The not insuring the premises between the ——— day of ———, A.D. ———, and ——— (*So proceed to state shortly any other breach of covenant in respect of which the action is brought*).

The above particulars are delivered pursuant to the order of ———, dated ———.

III. For Interim Alimony.

417. NOTICE OF MOTION.

(*Rules 370, 371.*)

On behalf of the plaintiff, for an order requiring the defendant to pay to the plaintiff the sum of $——— per week for interim

alimony, from the date of the service of the writ of summons upon the defendant until the trial of this action, and also her interim disbursements up to and inclusive of her disbursements for the said order. And take notice, &c.

---

418. AFFIDAVIT IN SUPPORT.

Proving Marriage Where the Same is not Admitted by the Defendant.

1. I am the plaintiff in this cause.

2. On the ——— day of ———, 19—, I was married to the defendant A.B. (according to the rites and ceremonies of the Church of Rome, at Saint Paul's Church in the Town of ——— by C.D. a priest of the said church) *or* by E.F. minister of ———, duly authorized by law as I verily believe to celebrate marriage (*or as the case may be*).

3. That the paper now produced to me and marked with the letter "A" is a certificate of my said marriage.

Proof of the defendant's means and the nature and value of his property should also be produced.

(*Where the motion becomes necessary because a notice according to No. 420 has been served, but the plaintiff does not accept the amount proposed as sufficient, the facts should be shewn and the affidavit may be framed accordingly.*)

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419. AFFIDAVIT TO OBTAIN PRÆCIPE ORDER.

For Interim Alimony.

1. I am the solicitor for the plaintiff herein.

2. The writ of summons herein with the demand indorsed thereon for interim alimony is now shewn to me and marked Exhibit A.

3. On the ——— day of ———, 19—, I was, as solicitor for the plaintiff, served with the notice now shewn to me and marked Exhibit B (*where necessary add*: and in response thereto on the ——— day of ———, A.D. 19—, I caused to be served on the defendant's solicitor the notice now shewn to me and marked Exhibit C.)

4. Default has been made in payment of the interim alimony which became payable on the ——— of ———, 19—, under said notice and the demand for interim alimony indorsed on the said writ of summons and the same has not been paid to me and as I verily believe remains wholly unpaid.

420. NOTICE SUBMITTING TO PAY INTERIM ALIMONY.

(*Rule 370.*)

(*Court and Style of Cause.*)

Take notice that the defendant hereby submits to pay to the plaintiff the amount claimed by the indorsement on the writ herein for interim alimony as demanded in said indorsement, (*or* the sum of $——— per week payable as mentioned in the indorsement on the writ of summons herein).

Dated this ——— day of ———, A.D. 19—.

To — ——.

---

421. NOTICE ACCEPTING DEFENDANT'S PROPOSAL

To Pay Interim Alimony.

(*Court and Style of Cause.*)

Take notice that the plaintiff accepts as sufficient the proposal as to payment of interim alimony contained in your notice herein, dated the ——— day of ———, A.D. 19—.

Dated, &c.

To ———.

---

422. ORDER FOR INTERIM ALIMONY.

Upon the application of the plaintiff, and upon hearing read the affidavit of ——— filed, and upon hearing the solicitors for the plaintiff and the defendant, and the plaintiff undertaking to set this action down and bring the same on for trial at the next sittings of this Court for that purpose at the place where the trial of this action is to take place.

1. It is ordered that the defendant do forthwith pay to the plaintiff the sum of $——— as and for arrears of interim alimony since the date of service of the writ of summons upon the said defendant up to ———.

2. And it is further ordered that the said defendant do on the ——— day of ———, 19—, and on ——— of each succeeding ——— until the hearing or other determination of the action, pay to the plaintiff or to whom she may appoint at ——— the sum of $——— as and for interim alimony, up to the trial of the action and the judgment or other adjudication thereon.

3. But in the event of any of the said days appointed for payment falling upon a Sunday or other legal holiday, then the said payments are to become due and payable on the next judicial day.

4. And it is further ordered that the defendant do forthwith pay to the plaintiff the sum of $——— as and for her interim disbursements to date.

---

423. ORDER FOR SALE OF LANDS.

To Realize Arrears of Alimony.

Upon the petition of the above-named plaintiff presented unto this Court this day by Mr. ——— of counsel for the plaintiff, in the presence of counsel for the defendant, upon hearing read the said petition and the affidavits of ——— filed, the pleadings and the order for interim alimony made on the ——— day of ———, 19—, by the Local Judge of the High Court of Justice at ———, and upon hearing what was alleged by counsel aforesaid:

1. This Court doth declare that the plaintiff is entitled to have the lands and premises mentioned in the said petition, or a competent part thereof, sold for the satisfaction of the amount due to her from the said defendant for interim alimony and interest thereon, and the costs of and incidental to this application, and doth order the same accordingly.

2. And this Court doth further order that it be referred to the Master-in-Ordinary to enquire and state whether any and what persons have any lien, charge or encumbrance on the said lands, and he is to cause such persons (if any) to be served with process under the Rules of Court in that behalf. The said Master is to take an account of what is due to the said encumbrancers for principal money and interest, and tax to them their costs of proving their claims, and settle their priorities, and appoint a time and place for payment.

3. And upon the said defendant paying to the plaintiff and the said encumbrancers what shall be so found due for principal, interest and costs, at such time and place as the said Master shall appoint, this Court doth order that the said plaintiff and such other encumbrancers do assign and convey the said lands free and clear of all encumbrances created by them, and deliver up all deeds and writings in their custody or power relating thereto upon oath to the defendant or defendants making such payment, or to whom he or they may appoint, or enter up satisfaction upon the roll of their respective judgments, as the case may be.

4. But in default of payment being made as aforesaid, this Court doth further order that the said lands and premises, or a competent part thereof, be sold with the approbation of the said Master (free from the dower of the plaintiff, if any, in said lands, if she shall consent, but subject thereto if she shall not consent), by public auction, private contract or tender, as to the said Master shall seem best, and the purchasers are to pay their purchase money into Court to the credit of this cause, and the said Master is to settle the conveyance to the purchaser in case the parties differ about the same, and all proper parties are to join therein as the said Master shall direct.

5. And this Court doth further order that if the said lands shall be sold freed from the said dower of the plaintiff herein, and the said Master shall find that she was entitled to dower in the said lands so sold, one-third of the said purchase money be set apart and invested as a security for the plaintiff's dower in the said lands.

6. And this Court doth further order that the purchase money, or remaining two-thirds of said purchase money in case the said one-third be set apart as aforesaid, be applied in payment of the amount due the plaintiff for interim alimony and costs of this application and costs of said reference and sale as between solicitor and client, and of the costs of the said encumbrancers, if any, according to their priorities, to be computed and taxed by the said Master, and the residue thereof, if any, is to remain in Court until this Court shall hereafter see fit to make other order.

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424. ORDER SUSPENDING PAYMENT OF ALIMONY.

Upon the humble petition of the above named defendant presented unto this Court this day (*or* on the ——— day of ——— A.D. 19—, when the same was ordered to stand over until this present day), in presence of counsel for the said defendant, no one appearing for the said plaintiff though duly notified, upon opening of the matter, and upon hearing read the said petition and the affidavit of service thereof, and upon hearing the judgment made herein on the ——— day of ———, A.D. 19—, and what was alleged by counsel aforesaid, and it appearing that the plaintiff has been guilty of a breach of the said judgment in that she has abducted two of the children of the said plaintiff and defendant out of the jurisdiction of this Court:

1. This Court doth order that the defendant be and he is hereby relieved and discharged from the payment of alimony ordered to be paid by the said defendant to the said plaintiff by the said judgment herein, until this Court shall make further order to the contrary.

IV. Striking Out Jury Notice.

425. NOTICE OF MOTION—IRREGULARITY.

Judicature Act, Secs. 103-106. Rule 42 (15) and 47.

Take notice that a motion will be made before the Master in Chambers (*or* the Local Judge of the High Court of Justice) at ——— on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon on behalf of the ——— for an order that the Jury notice served herein may be set aside and that the issues herein may be tried and the damages assessed

without a jury on the ground that (the said jury notice was served after the time allowed *or* is improper having regard to section 103 of the Judicature Act.)

And further take notice that in support of such motion will be read the pleadings and proceedings in this action and the affidavit of ——— and the exhibits therein referred to.

---

426. NOTICE OF MOTION—INCONVENIENCE OR DELAY.

Judicature Act, Sec. 110. Rules 42 and 47.

Take notice that a motion will be made before the presiding Judge in Chambers (*or* the judge presiding at the trial of this action *or* Local Judge of the High Court of Justice) at ——— on ——— day the ——— day of ———, 19—, at the hour of ———o'clock in the ——— noon on behalf of the ——— for an order that the Jury notice served herein may be set aside and that the issues herein may be tried and the damages assessed without a jury on the ground that ———.

And further take notice that in support of such motion will be read the pleadings and proceedings in this action and the affidavit of ——— and the exhibits therein referred to.

---

427. AFFIDAVIT IN SUPPORT.

I, A.B., of, &c., make oath and say:

1. *Verify the notice for Jury, the time of service and show in what respect it is irregular. If the notice is improper under Sec. 103 of the Judicature Act verify the pleadings and other proceedings showing the nature of the action for example:*

Now shown to me and marked Exhibit "A" to this my affidavit is the statement of claim served in this action, &c.

If the motion is made on the ground of inconvenience or delay, verify the pleadings, &c., as above, and set forth such other facts and circumstances as will show inconvenience or delay in the trial of the action.

---

428. ORDER STRIKING OUT JURY NOTICE.

For Irregularity.

1. It is ordered that the jury notice served herein by the defendant (*or* plaintiff) be and the same is hereby set aside for irregularity.

2. And it is further ordered that the costs of and incidental to this application be costs to the plaintiff in any event of the cause (*or as the case may be*).

429. ORDER STRIKING OUT JURY NOTICE.

Inconvenience or Delay.

IN THE HIGH COURT OF JUSTICE.

The Hon. Mr. Justice ———.
In Chambers,
(*or* the Judge of the County Court of the County of ———,
or the Local Judge of the High Court of Justice at ———.
In Chambers).

———day the ——— day of ———, 19—.

(*But Not Master-in-Chambers. See Rule 42 (15).*)

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the plaintiff (*or* defendant), upon reading the affidavits of ——— filed and the exhibits therein referred to, and the affidavit of ——— in answer thereto, and upon hearing the solicitors for the plaintiff and the defendant:

1. It is ordered that the jury notice served herein by the defendant (*or* plaintiff) be and the same is hereby set aside.

2. And it is further ordered that the costs of and incidental to this application be costs in the cause (*or as the case may be*).

---

430. ORDER REFERRING MOTION TO JUDGE AT TRIAL.

1. It is ordered that the motion made herein by the plaintiff (*or* defendant) to strike out the notice for a jury served herein, and to have the issues herein tried without a jury, be and the same is hereby referred to the Judge presiding at the trial of this action.

2. It is further ordered that the costs of this motion be costs in the cause unless otherwise ordered by the said Judge presiding at the trial.

V. TO CHANGE PLACE OF TRIAL.

431. NOTICE OF MOTION.

On behalf of the plaintiff, for an order changing the place of trial of this action from the (City of Toronto in the County of York) to the (Town of ——— in the County of ———); and take notice, that upon and in support of such application, &c.

---

432. AFFIDAVIT IN SUPPORT.

1. (*Shew that the action is at issue*).

2. The plaintiff's cause of action herein (if any) arose wholly in the County of ———.

3. I am advised by counsel and verily believe that in order to prove my defence in this cause it will be necessary for me to subpœna at least (ten) witnesses, all of whom are material and necessary witnesses on my behalf, and each of them resides either in, or within ——— miles of the said (Town of ———).

4. The said Town of ——— is distant ——— miles from the said City of ——— and the railway fare from ——— to ——— is $———.

5. The expense of subpœning my said witnesses to ——— will be greatly in excess of the expense of subpœning them to the said Town of ———, and I believe from a calculation which I have made that such extra expense will amount to the sum of ——— at least.

6. This action can be much more conveniently tried at the said Town of ——— than at the said City of ——— and at much less expense.

7. This application is made in good faith, and not for the purpose of delay.

8. I believe that the excess costs of trying this action at the place of trial named by the plaintiff instead of at ——— would substantially exceed the costs of this motion.

Note.—Where possible it is advisable to set out the names of the witnesses and the points upon which they are to be called.

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433 ANOTHER FORM.

(*Paragraphs Nos. 1 and 2 as in preceding form.*)

3. A.G., Esquire, the Sheriff of the County of ———; D.E., Esquire, the Registrar of the County of ———; F.R., Esquire, the Treasurer of the said County of ———; and Mr. A.B., the Town Clerk of the Town of ———, are each and all material and necessary witnesses on my behalf, and I cannot safely proceed to a hearing of this cause without the evidence of the said several parties.

4. I am informed by the said parties, and believe that if they are compelled to attend the sittings of this Court at ———, it will materially interfere with the due discharge of their duties as public officers as aforesaid, and will be a great inconvenience to the public.

5. The said parties all reside in the said (Town of ———), and I believe this cause can be quite as conveniently tried at the said (Town of ———) as at the (City of ———).

6. This application is made in good faith, and not for the purpose of delay.

434. ORDER CHANGING PLACE OF TRIAL.

1. It is ordered that the place of trial of this action be changed from the ——— in the county of ——— to the ——— in the county of ———.

2. And it is further ordered that the costs of this application be costs in the cause (*or as may be ordered*).

VI. To Postpone Trial.

435. NOTICE OF MOTION.

For an order postponing the trial of this action until the next sittings to be holden at the Town of ——— in the County of ——— for the trial of actions with a jury, or until such further time as to the said ——— may seem just, upon the ground of the absence of a necessary and material witness on behalf of the defendant, or for such further or other order as may be deemed right.

And further take notice that in support, etc.

436. AFFIDAVIT IN SUPPORT.

1. Notice of trial was on the ——— day of ———, 19—, served by the ——— herein for the sittings of the High Court of Justice for the trial of actions to be holden at ———.

2. ——— is a necessary and material witness for me in this action, and I am advised by counsel, and believe that I can not safely proceed to the trial of this action without the testimony of the said ———.

3. (*State reasons why witness cannot be present, etc.*)

4. The application on my behalf to postpone the trial is made *bona fide* and not for the purpose of delay, or for any other improper purpose.

(*Where it is material on the application to shew the matters in issue in the action, an affidavit of the solicitor verifying copies of the pleadings should also be made.*)

437. ORDER POSTPONING TRIAL.

1. It is ordered that the trial of this action be and the same is hereby postponed until the sittings for the trial of actions without a jury to be holden at the Town of ——— on the ——— day of ———, 19—.

2. And it is further ordered that the said action be transferred to the list of actions to be tried at the said non-jury sittings at ———.

3. (*If ordered*) And it is further ordered that the defendant do on the final taxation of the costs of the action, in any event of the same, pay to the plaintiff the disbursements which the plain-

tiff has made in preparing for the trial of this action up to the date hereof and which will be lost to the plaintiff by reason of the said postponement.

4. And it is further ordered that the costs occasioned by the said postponement other than the said disbursements, and the costs of and incidental to this application, be costs in the cause.

CHAPTER XVIII.

JUDGMENTS.

I. General Forms.

438. JUDGMENT IN DEFAULT OF APPEARANCE

Or in Default of Defence in case of Liquidated Demand.

(*Rules 575, 587.*)

In the High Court of Justice.

Between A.B., Plaintiff,

and

C.D. and E.F., Defendants.

(Monday) the ——— day of ———, 19—.

The defendants (*or* the defendant C.D.) not having appeared herein (*or* not having delivered any statement of defence), it is this day adjudged that the plaintiff recover against the said defendant $———, and costs to be taxed (*or where the officer signing judgments is also the taxing officer* $——— for costs).

Judgment signed the ——— day of ———, 19—.

(*Signature of Officer.*)

The following may be appended at or after the signing of the judgment on production of the taxing officer's certificate:

The above costs have been taxed and allowed at $——— as appears by a taxing officer's certificate dated the ——— day of ———, 19—.

(Signature of Officer.)

Note.—The full style of cause is necessary in all judgments. Rule 320.

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439. AFFIDAVIT OF NON-APPEARANCE.

1. I did on the ——— day of ———, 19. duly cause a search to be made in the office of this Honourable Court for the purpose of ascertaining if any appearance had been entered for the defendant ——— in this action in the book kept there for that purpose.

2. No appearance had been entered for the said defendant as appeared by the said book, and I verily believe that the said defendant has not appeared to the writ in this cause.

3. No Notice of Appearance has been given by or on behalf of said defendant, as I verily believe.

---

440. AFFIDAVIT OF PAYMENT OF SHERIFF'S FEES.

1. I did on the ——— day of ———, 19—, pay to the sheriff of ——— the sum of $———, being the amount of his charge for mileage and fees for the service of the ——— in this action, by enclosing the said sum of money in a letter addressed ——— (*or as the case may be*).

---

441. INTERLOCUTORY JUDGMENT.

In Default of Appearance or Defence where Demand Unliquidated. (Rule 578.)

No appearance having been entered to the writ of summons (*or* no statement of defence having been delivered) by the defendant herein:

1. It is this day adjudged that the plaintiff recover against the defendant the value of the goods *or* damages, (*or both as the case may be*), to be assessed.

Judgment signed the ——— day of ———, 19—.

---

442. JUDGMENT AFTER ASSESSMENT OF DAMAGES.

In Default of Appearance or Defence. Rule 578.

No appearance having been entered to the writ of summons (*or* no statement of defence having been delivered) by the defendant herein, and the damages which the plaintiff was entitled to recover having been assessed at $———, as by ——— dated the ——— 19—, appears, it is adjudged that the plaintiff recover $——— and costs to be taxed, (*or* $——— for costs.)

---

443. JUDGMENT FOR PLAINTIFF'S COSTS.

After Confession of Defence. (Rule 295.)

The defendant in his statement of defence herein having alleged a ground of defence which arose after the commencement of this action, and the plaintiff having on the ——— day of ———, 19—, delivered a confession of that defence:

1. It is this day adjudged that the plaintiff recover against the defendant costs to be taxed (*or* $——— for costs).

444. JUDGMENT FOR DEFENDANT'S COSTS.

On Discontinuance. (*Rule 430.*)

The plaintiff having by a notice in writing dated the ——— day of ———, 19—, wholly discontinued this action (*or* withdrawn his claim in this action for ——— *or* withdrawn so much of his claim in this action as relates to ———, *or as the case may be*):

1. It is this day adjudged that the defendant recover against the plaintiff costs to be taxed (*or* $——— for costs).

445. JUDGMENT FOR COSTS.

After Acceptance of Money Paid into Court. (*Rule 425.*)

The defendant having paid into Court in this action the sum of $——— in satisfaction of the plaintiff's claim, and the plaintiff having by his notice dated the ——— day of ———, 19—, accepted that sum in satisfaction of his entire cause of action, and the plaintiff's costs herein having been taxed, and the defendant not having paid the same within 48 hours after the said taxation:

1. It is this day adjudged that the plaintiff recover against the defendant costs to be taxed.

446. JUDGMENT PURSUANT TO ORDER.

Default of Compliance with Condition. (*Rule 638.*)

Pursuant to the order of ———, dated ———, 19—, whereby it was ordered ———, and default having been made ———:

1. It is this day adjudged that the plaintiff recover against the said defendant $——— and costs to be taxed (*or* $——— for costs).

447. JUDGMENT PURSUANT TO ORDER.

On Default of Payment into Court.

Pursuant to the order of ——— dated the ——— day of ———, 19—, whereby it was ordered that unless $——— be paid into Court by the defendant (within a week) the plaintiff be at liberty to sign final judgment for the amount indorsed on the writ of summons with interest, if any, and costs; and the said defendant not having paid into Court, the said sum of $———, as conditioned by the said order it is this day adjudged that the plaintiff recover against the defendant $——— and (costs to be taxed *or* $——— for costs).

448. JUDGMENT ON MOTION FOR JUDGMENT.

(*Rule 609.*)

Upon motion for judgment made this day unto this Court by counsel for the plaintiff (*or as may be*), and upon hearing read

——— and upon hearing counsel for the defendant (*or as may be*):

1. (*Where necessary* This Court doth declare, &c.)
2. (And) this Court doth order and adjudge, &c.)
3. And this Court doth further order and adjudge, &c.

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449. JUDGMENT ON ISSUE.

Formal Parts, Showing Title of Original Action or Matter and Title of Issue.

The issue directed to be tried by the order made in the first above mentioned action on the ——— day of ——— between the above named T., plaintiff, and S., defendant, coming on for trial this day before this Court at the sittings for the trial of actions without a jury at the City of Toronto, in the presence of counsel for the said T. and S. upon hearing read the pleadings and upon hearing the evidence adduced and what was alleged by counsel aforesaid.

(*If so* this Court was pleased to direct the said issue to stand over for judgment and the same coming on this day for judgment.)

1. This Court doth declare that the moneys paid into Court to the credit of the first mentioned cause are the property of the plaintiff T., and doth adjudge the same accordingly.

2. And this Court doth order and adjudge that said defendant do pay to said plaintiff his costs of the said action and issue to be taxed.

3. And this Court doth further order that the moneys in Court to the credit of said first mentioned action as aforesaid be paid out to the said plaintiff together with interest accrued thereon.

---

450. JUDGMENT ON MOTION.

After Trial of Issue.

Upon motion made unto this Court for judgment on behalf of the ——— in presence of ———, &c.

And the issues (*or* questions of fact) arising in this action by the order dated the ——— day of ——— ordered to be tried before ——— having on the ——— day of ——— been tried before ———, and the ——— having found:

1. This Court doth order and adjudge that the ——— do recover against the ——— the sum of $——— and costs to be taxed.

451. JUDGMENT AFTER TRIAL.

IN THE HIGH COURT OF JUSTICE.

Hon. Mr. Justice ———.

Monday the ——— day of ———, 19—.

(*Date of pronouncing judgment.*)

Between A.B., Plaintiff,

and

C.D., E.F., and G.H. Defendants.

This action coming on for trial this day (*or* on the ——— day of ———, 19—), before this Court at the sittings holden at ——— for trial of actions without a jury (*or* at the Assizes holden for the County of ——— at ———) in presence of counsel for all parties (*or if some of the parties do not appear* for the plaintiff and the defendant C.D., no one appearing for the defendants E.F. and G.H., although they were duly served with notice of trial as by the affidavit of ——— appears, *or as may be*), upon hearing read the pleadings and hearing the evidence adduced and what was alleged by counsel aforesaid (*if judgment was reserved, add*: this Court was pleased to direct this action to stand over for judgment, and the same coming on this day for judgment):

1. This Court doth order and adjudge *as may be directed,* (*or, if any declaration is necessary*), This Court doth declare (*e.g.,* that the deed mentioned in the 4th and 5th paragraphs of the plaintiff's statement of claim is fraudulent and void as against the plaintiff and all other creditors of the defendant C.D. except the defendant E.F., and doth order and adjudge the same accordingly).

2. And this Court doth further order and adjudge (*add any special or appropriate direction or reference to Master or other officer.*)

3. *If so,* And this Court doth reserve further directions and the question of costs until after the said Master shall have made his report.

4. And this Court doth further order and adjudge that the defendant do pay to the plaintiff his costs of this action forthwith after taxation thereof (*or* this Court doth order and adjudge that this action be and the same is hereby dismissed with costs to be paid by the plaintiff to the defendant forthwith after taxation thereof.)

---

452. JUDGMENT AFTER TRIAL WITH JURY.

This action having come on this day for trial before this Court with a jury of the County of ——— at the sittings holden at ——— for the trial of actions (*or* at the Assizes holden at ——— for the County of ———), in presence of all parties (*or if some of the parties do not appear* of the plaintiff and the defendant C.D., no

one appearing for the defendants E.F. and G.H., although they were duly served with notice of trial as by the affidavit of ——— appears) and the jury having found a verdict for the plaintiff for $——— damages (*or as the case may be*):

1. This Court doth order and adjudge that the plaintiff do recover (*as in preceding Form.*)

---

453. JUDGMENT DISMISSING ACTION.

Without Prejudice to Another Action.

(*Formal Parts.*)

2. And this Court doth further order that the dismissal of this action is to be without prejudice to any action which the said plaintiff may bring (*in respect to the ownership of the lands or any part thereof mentioned in the said pleadings*) if so advised.

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454. JUDGMENT DECLARING A MIS-TRIAL.

Inconsistent Answers by Jury.

This action having come on for trial on the ——— day of ———, 19—, before this court with a jury of the county of ——— at the sittings holden for the trial of actions with a jury at the Town of ——— in the County of ———, in presence of Counsel for both parties, upon hearing read the pleadings and upon hearing the evidence and what was alleged by Counsel aforesaid, and counsel for the defendants having at the close of the plaintiff's case, and again at the close of the whole evidence, moved for a non-suit or judgment dismissing this action, and judgment having been reserved upon the said motions, and the jury having answered certain questions submitted to them, this Court was pleased to direct that this action should stand over for judgment, and the same coming on this day for judgment.

1. This Court doth declare that the answers of the jury to questions numbers 1, 2, 3, 6 and 6a are inconsistent and irreconciliable rendering it impossible to base thereon any judgment in favor of either party and the result is a mistrial, and doth order and adjudge the same accordingly.

2. And this Court doth not see fit to make any order upon the defendants' said motions.

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455. JUDGMENT ON CLAIM AND COUNTERCLAIM.

1. This Court doth order and adjudge that the plaintiffs do recover against the said defendants C. D. and E.F. the sum of $——— on the causes of action set out in the ——— paragraph of their statement of claim together with costs to be taxed (*if so* on the County Court Scale, *if so* without any right to the said defendants to set off any costs against the same.)

2. And this Court doth further order and adjudge that the plaintiffs' action be dismissed as to the causes of action mentioned and set out in the ——— paragraphs of their statement of claim without costs.

3. And this Court doth further order and adjudge that the defendant C.D. do recover against the plaintiffs on his counterclaim in this action the sum of $——— without costs to be set off against the judgment in favour of the said plaintiffs.

4. And this Court doth further order and adjudge that the counterclaim of the defendant E.F. be dismissed without costs.

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456. JUDGMENT FOR DAMAGES

To be Assessed by Master.

This action having come on for the assessment of damages before this Court at the sittings holden at the City of ——— for the trial of actions in the presence of counsel for the plaintiff (no one appearing for the defendant), upon hearing read the writ of summons, the plaintiff's statement of claim, and the affidavits of service thereof, and the judgment of this Court dated the ——— day of ———, 19—, and upon hearing what was alleged by counsel aforesaid.

1. This Court doth order and adjudge that it be referred to the Master in Ordinary of this Court (*or as may be*) to inquire and state what damages the plaintiff has sustained by reason of the matters in the plaintiff's statement of claim mentioned.

2. And this Court doth further order and adjudge that the said defendant do pay to the said plaintiff such sum as the said Master may find the plaintiff entitled to as damages aforesaid forthwith after the confirmation of the said Master's report.

3. And this Court doth further order and adjudge that the said defendant do pay to the said plaintiff his costs of this action (including the costs of the said reference) forthwith after taxation thereof.

II. Particular Judgments.

457. JUDGMENT FOR ACCOUNTS.

Against Executors and Trustees.

1. This Court doth order and adjudge that the following accounts and inquiries be taken and made by the Master of this Court at ———, that is to say:

(1) An account of the assets, property and effects real and personal of the estate of A.B., the testator in the pleadings mentioned come to the hands of the defendants, and the late C.D. as executors and trustees of the said estate.

(2) An account of the dealings of C.D. and of the defendants ——— and ——— and each of them with the estate of the said A.B. deceased, in the pleadings named.

(3) And an account of the property, moneys and securities of the said estate in the hands of the said defendants ——— and ——— or any or either of them, or now outstanding and unrealized.

(4) An account of the property, money and securities of the said estate as the same existed at the time of the death of the said testator A.B. and as the same now exist, and of the losses, if any, in connection therewith and how and when such losses, if any, were occasioned and arose.

(5) And in case the said Master shall find any part of the said estate real or personal shall have been lost, an inquiry whether the defendants or any or either of them are liable to account for and make good such losses or any part thereof.

(6) And this Court do reserve further directions and the questions of costs until after the said Master shall have made his report.

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458. JUDGMENT FOR ALIMONY.

1. This Court doth declare that the plaintiff is entitled to a proper allowance by way of alimony so long as she shall continue to live separate and apart from the defendant having reference to the means, stations and position in life of the parties hereto and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that it be referred to the Master of the Supreme Court of Judicature for Ontario at ——— to ascertain and fix a proper allowance to be paid by the defendant to the plaintiff for alimony so long as the plaintiff shall continue to live separate and apart from the defendant, having reference to the means, station and position of the parties (and also to ascertain and fix a proper sum to be paid by the defendant to the plaintiff as an allowance for interim alimony from the date of service of the writ of summons in this action to the date of this judgment pursuant to the (said) order of the ——— day of ——— last) and to tax to the plaintiff her costs of this action between solicitor and client and to appoint a time and place for payment of said alimony and interim alimony.

3. And this Court doth further order and adjudge that the defendant do pay to the plaintiff what the said Master may think proper to be allowed her for alimony and interim alimony as aforesaid up to the time of making the said report and her costs of this action forthwith after the said Master shall have made his report.

4. And this Court doth further and adjudge that the defendant do from time to time pay to the plaintiff at such time and place

as the said Master shall appoint during the lifetime of the parties and so long as the plaintiff shall live separate and apart from the defendant, or until this Court shall make other order to the contrary such sum as the said Master may find proper to be allowed to her for alimony.

5. But in the event of any of the days appointed for the payment falling upon a Sunday or other holiday this Court doth further order and adjudge that payment be made on the next juridical day thereafter.

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459. JUDGMENT SETTING ASIDE CHATTEL MORTGAGE.

As Between the Parties.

1. This Court doth declare that the chattel mortgage in the plaintiff's statement of claim mentioned, given by the plaintiff to the defendant dated the ——— day of ———, 19—, and filed in the office of the Clerk of the County Court of the County of ——— on the ——— day of ———, 19—, as number ——— is void and of no effect and should be set aside and cancelled; and this Court doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the plaintiff do recover from the defendant the sum of ——— dollars for his damages which he has sustained by reason of the trespass in the statement of claim mentioned.

3. And this Court doth order and adjudge that the defendant, his servants, agents and workmen, be and they are hereby perpetually enjoined and restrained from enforcing the said chattel mortgage and removing the goods and chattels in the said chattel mortgage mentioned or referred to from the said plaintiff's house and possession, and from selling the same or any of them, and from assigning or otherwise disposing of the said chattel mortgage, and from interfering in any way with the said goods or chattels or any of them.

4. And this Court doth order and adjudge that the defendant pay to the plaintiff forthwith after taxation thereof the costs of the plaintiff of this action including the costs of the motion for injunction.

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460. JUDGMENT SETTING ASIDE CHATTEL MORTGAGE.

As Fraudulent.

1. This Court doth declare that the chattel mortgage from ——— to ——— in the pleadings mentioned of the goods and chattels in question in this action is fraudulent and void as against the plaintiff and the other creditors of the said ———, and the defendant ——— and each of them, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the defendant, his servants, workmen and agents be and they are hereby perpetually restrained from selling or disposing of the said goods and chattels contained in the said chattel mortgage, or in any way interfering therewith, and from assigning or transferring the said chattel mortgage.

3. And this Court doth further order and adjudge that it be referred to the Master of the Supreme Court of Judicature at ———, to inquire and state whether any persons other than the plaintiff have any lien or charge upon the said goods and chattels contained in the said chattel mortgage, and to cause such persons (if any) to be served with process under the Consolidated Rules of this Court in that behalf; and the said Master is to take an account of what is due to the plaintiff and such creditors of the said ——— who may come in and contribute to the expenses of this action for principal money and interest, and tax to them their costs of this action and settle their priorities.

4. And this Court doth further order and adjudge that the said goods and chattels be forthwith sold, with the approbation of the said Master, and that the purchaser or purchasers do pay his, her or their purchase money into Court to the credit of this action, subject to the order of this Court, and the same when so paid in is to be applied:—*First*, In payment to the plaintiff of his costs of this action as between party and party, or so much thereof as may not be personally paid by the defendants as hereinafter directed. *Second*, In payment of what shall be found due to the plaintiff and the said creditors according to their priorities, together with subsequent interest and subsequent costs to be computed and taxed by the said Master.

5. And this Court doth further order and adjudge that the said Master do also take an account of the costs of the plaintiff as between solicitor and client, and the costs, charges, expenses and disbursements of the plaintiff of and incidental to this action over and above the plaintiff's costs as between party and party, and apportion the difference among the creditors entitled to share in the said moneys including the plaintiff in proportion to the amounts realized for them under this judgment and the amount of such difference is to be paid out of the shares of the said creditors, including the plaintiff, in the said moneys according to such appointment.

6. And this Court doth further order and adjudge that the defendants do pay to the plaintiff his costs of this action up to and inclusive of this judgment forthwith after taxation thereof by the said Master.

461. DEBENTURE HOLDERS.

Judgment for Account.

This court doth declare:—

1. That the plaintiffs and the other holders of the mortgage debentures forming part of the issue of ——— debentures of the defendant company are entitled to a first charge on all of the real and personal property, and undertaking of the defendant company as is covered by aforesaid mortgage securities (the said property and assets being more fully described in schedule "A" to this judgment for the payment of the moneys secured thereby).

2. This Court doth order that it be referred to ——— to take the following accounts and inquiries:—

1. An account of what is due the plaintiffs and the other holders of the said mortgage debentures issued by the defendant company.

2. An inquiry of what property or assets of the defendant company are comprised in the said mortgage debentures and the charge or security thereby created.

3. An inquiry what charges or encumbrances prior to the said debenture holders affect the property respectively comprised in or charged by the said debentures.

4. An inquiry what other encumbrances whether prior or subsequent affect the property respectively comprised in or charged by the said debentures.

5. An inquiry what are the priorities of such other charges or encumbrances and the said debentures respectively.

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462. DEBENTURE HOLDERS.

Judgment for Sale.

This Court doth order and adjudge:

1. That the lands and premises, chattels, undertaking, stock-in-trade, works, plant, property and effects and assets, comprised in the said indenture dated the ——— day of ———, 19—, be sold with the approval of the official referee, and that the proceeds of the sale be paid into Court to the credit of this action.

Note.—The judgment for sale and for an account may be joined in one judgment if such be granted.

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463. JUDGMFNT OF SEISIN FOR DOWER.

In Default of Appearance. (*Rule 581.*)

The defendant not having appeared to the writ of summons, it is this day adjudged that the plaintiff do have seisin of her third part or dower in the lands in question in this action, and that the same be forthwith delivered to her and set out by metes and bounds.

(*If damages are claimed, add*: And it is further adjudged that the plaintiff do recover against the defendant damages to be assessed.

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464. JUDGMENT FOR DOWER—ANNUITY.

Sale in Default of Payment.

1. This Court doth declare that the plaintiff is entitled to have assigned to her her dower in the lands and premises in the plaintiff's statement of claim described, and that she is entitled to her annuity under the will of B.D. in the said statement of claim mentioned, and also all arrears of her said dower and annuity which may be due from the defendant to the plaintiff and unpaid, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that it be referred to the Master of the Supreme Court of Judicature at ——— to set out and assign to the plaintiff by metes and bounds her dower in the said lands and premises, and also to take an account of the amount (if any) due from the defendant to the plaintiff for arrears of dower and also for arrears of the said annuity, and also to appoint a time for payment of the growing payments of the said annuity as the same shall accrue.

3. And this Court doth further order and adjudge that after the lands and tenements shall bet set out and assigned to the plaintiff for her said dower, the defendant do forthwith thereafter deliver to the plaintiff possession of the lands and premises which shall be so set out and assigned to her, and the tenants thereof (if any) are to attorn and pay their rents to the plaintiff.

4. And this Court doth further order and adjudge that the defendant do forthwith after the making of the Master's report pay to the plaintiff the amount of such arrears (if any) which the said Master shall find to be due to the plaintiff as aforesaid, and do also from time to time thereafter pay to the plaintiff the growing payments of said annuity as the same shall fall due at such time and place as the said Master shall appoint.

5. And this Court doth further order and adjudge that the defendant do pay to the plaintiff her costs of this action forthwith after taxation thereof.

6. And this Court doth further order and adjudge that in default of payment by the defendant of such arrears of dower and annuity and costs of this action within one month after the said Master shall have made his report, or in case the defendant shall make default in payment of the growing payments of the said annuity as the same shall fall due at such time and place as the said Master shall appoint, in that event the said Master do inquire whether any person or persons other than the plaintiff has or have any lien, charge or incumbrance upon the said lands

or any part thereof subsequent to the plaintiff, and if he shall find that there is or are any such person or persons he is to add him, her or them as parties to this action and cause them to be served with process, and is to take an account of what is due to such incumbrancer or incumbrancers and tax to them their costs of proving their claims and settle their priorities.

7. And this Court doth further order and adjudge that in default of payment of what shall be found due to the plaintiff for the arrears of her said dower and annuity within one month after the said Master shall have made his report, or in the event of the said defendant making default at any time in payment of the growing payments of the said annuity at such time and place as the said Master shall appoint, the said lands be sold with the approbation of the said Master subject to the dower of the said plaintiff, and that the purchasers do pay their purchase money into Court to the credit of this action subject to the order of this Court, and that all proper parties do join in the conveyances as the said Master shall direct.

8. And this Court doth order and adjudge that the purchase money be applied:—*First*, in payment of what shall be found due to the said plaintiff for arrears of her said dower and annuity and costs, and her subsequent costs to be taxed; and, *secondly*, a sufficient part of the residue to be settled by the said Master, is to be set apart to secure the growing payments of the said annuity of the plaintiff, and the amount is to remain in Court and the income thereof applied from time to time in payment of the said annuity as the same shall fall due; and, *thirdly*, in payment of the amounts which may be found due to the incumbrancers (if any) for principal interest and costs according to their priorities, and the residue thereof (if any) is to be paid to the said defendant. And upon the death of the said plaintiff the sum so ordered to be set apart to secure the growing payments of the said annuity together with such part, if any, of the income not required for the payment of said annuity after payment of the claims of the incumbrancers (if any) is also to be paid to the said defendant.

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465. JUDGMENT FOR ARREARS OF DOWER.

Sale in Default of Payment.

1. This Court doth declare that the plaintiff is entitled to dower in the lands and premises in the said statement of claim mentioned.

2. And this Court doth order and adjudge that it be referred to the Master of this Court at ——— to set out and assign such dower to the plaintiff and to take an account of the rents, issues and profits of the said land since the date of the death of the plaintiff's

husband, to which the plaintiff is entitled as dowress, received by the order or for the use of the defendant, and to fix an occupation rent for the said lands, while the defendant has been in occupation of the same and to allow to the plaintiff her proportion thereof in respect of her dower.

3. And this Court doth further order and adjudge that the defendant do pay to the plaintiff within one month after the said Master shall have made his report, the amount which the said Master shall find to be due to the plaintiff for arrears of dower, and in default thereof that after such dower shall have been set apart as aforesaid, the remaining part of said lands or a competent part thereof, be sold with the approbation of the said Master and that the purchaser do pay his purchase money into Court to the credit of this action, and that all proper parties do join in the conveyance as the said Master shall direct.

4. And this Court doth further order and adjudge that the said purchase money when so paid into Court as aforesaid be applied first in payment of the amount which shall have been found due to the plaintiff for arrears of dower as aforesaid and her costs unless the said costs shall have been sooner paid by the defendant, and the residue thereof (if any) be paid to the defendant.

5. And this Court doth further order and adjudge that the defendant do pay to the plaintiff his costs of this action forthwith after taxation thereof.

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466. JUDGMENT FOR EASEMENT.

Right of Way.

1. This Court doth declare that the defendant, his heirs and assigns, occupiers of the (——— quarter of Lot No. —— in Con. ——— of the Township of ——— in the County of ———) is and are entitled to the free and uninterrupted use and enjoyment of (a sleigh road one perch wide) along the (east side of the northeast quarter of said lot No. —— in the ——— Con. of the Township of ——— in the County of ———, and Province of Ontario) and that the defendant is bound to erect and maintain a lawful fence on the (west) side of the said road, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the defendant, his servants, workmen and agents be and they are hereby perpetually restrained from entering upon or traversing the said ——— (except the said sleigh road as aforesaid).

3. And this Court doth further order and adjudge that the defendant do, within one month from the issue hereof, erect along the (west) side of said sleigh road a lawful fence and do from time to time maintain the same in necessary and proper repair.

4. And this Court doth further order and adjudge that the defendant do pay to the plaintiff his costs of this action (*if so*, including his costs of the motion for an injunction herein), forthwith after taxation thereof.

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467. JUDGMENT AGAINST EXECUTOR OR ADMINISTRATOR.

After Trial, Where Defence of plene administravit *has not been Pleaded, or if Pleaded, Fails.*

(De bonis testatoris; si non, de bonis propriis *as to costs.*)

This Court doth order and adjudge that the plaintiff recover against the defendant the sum of $———, and the sum of $——— for his costs of suit, to be levied of the property which was of the said E.F. at the time of his death in the hands of the defendant as executor (*or* administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then the sum of $——— being for the costs aforesaid to be levied of the proper goods and chattels of the said defendant.

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468. JUDGMENT AGAINST EXECUTOR OR ADMINISTRATOR.

Pursuant to Order on Motion for Judgment where Plaintiff accepts Defendant's Plea of Partial Administration.

(De bonis testatoris *as to part;* de bonis testatoris quando acciderint *as to residue.*)

This Court doth order and adjudge that the plaintiff recover against the defendant the sum of $——— and costs to be taxed, to be levied as to the sum of $——— of the property acknowledged to be in the hands of the defendant to be administered, and as to the residue thereof to be levied of other property which was of the said E.F. at the time of his death and which shall hereafter come to the hands of the defendant as executor (*or* administrator) as aforesaid to be administered.

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469. JUDGMENT AGAINST EXECUTOR OR ADMINISTRATOR.

De bonis testatoris quando acciderint *where Defence of* plene administravit *is established.*

This Court doth order and adjudge that the plaintiff recover against the defendant the sum of $——— and $——— for his costs of suit; to be levied of the property which was of the said E.F. at the time of his death and which shall hereafter come to the hands of the defendant as executor (*or* administrator) as aforesaid to be administered.

470. JUDGMENT AGAINST PERSONAL REPRESENTATIVE.

By Default or Where Assets are Admitted or Proved.

1. This Court doth order and adjudge that the plaintiff do recover against the defendant as (executor *or* administrator) of the estate and effects of C.D., deceased the sum of $——— and costs to be levied out of the property which was of the said C.D. at the time of his death in the hands of the said defendant as his (executor *or* administrator) as aforesaid, to be administered if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered then $———, being the costs aforesaid to be levied out of the proper goods and chattels, lands and tenements of the defendant.

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471. JUDGMENT DISMISSING ACTION AGAINST EXECUTORS.

1. This Court doth declare that the property devised and bequeathed to ———, deceased, in the pleadings mentioned, in and by the last will and testament of ———, deceased, was so devised and bequeathed to her, the said ———, absolutely and free from any trust, and doth order and adjudge the same accordingly.

2. And, subject to the declaration aforesaid, this Court doth further order and adjudge that this action be and the same is hereby dismissed.

3. And this Court doth further order and adjudge that the costs of the action of all parties, including those of the official guardian ad litem, be paid to them out of the estate of the said ———, deceased, by the defendants C.D. and E.F. as executors, forthwith after taxation thereof. And the said defendants, the executors, are to be at liberty to retain out of the estate of the said ——— their costs to be taxed as between solicitor and client.

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472. JUDGMENT SETTING ASIDE FRAUDULENT CONVEYANCE.

Plaintiff Simple Contract Creditor.

This Court doth declare that the deed of conveyance from the defendant C.D. to the defendant E.F., dated the ——— day of ———, 19—, in the pleadings mentioned, of the lands and premises in question in this action is fraudulent and void as against the plaintiff and the other creditors of the said defendant C.D. and doth order and adjudge the same accordingly.

1. And this Court doth further order and adjudge that it be referred to the Master of the Supreme Court of Judicature for Ontario at ——— to enquire and state whether any persons other than the plaintiff are creditors of the said defendant C.D., and whether any persons have any lien, charge or encumbrance (other

than prior mortgages) upon the said lands and to cause such persons (if any) to be served with process under the Rules in that behalf, and that the said Master do take an account of what is due to the plaintiff and such creditors and encumbrancers as may come in and contribute to the expenses of this action for principal money and interest, and tax to them their costs of this suit, and settle their priorities, and appoint a time and place for payment one year from the date of this said report, unless it shall appear that any such creditor has a writ of fi. fa. in the hands of the sheriff against the lands of the said defendant C.D. which he would be entitled to enforce at an earlier date, and in such case the said Master shall appoint such earlier date for the payment of the said moneys.

2. And that upon the said defendants or either of them paying to the plaintiff and the said encumbranceers and creditors what shall be so found due for principal, interest and costs at such time and place as the said Master shall appoint, the plaintiff and such other creditors and encumbrancers do assign and convey the said lands free and clear of all encumbrances done by them and deliver up all deeds and writings in their custody or power relating thereto upon oath to the defendant or defendants making such payment or to whom he, she or they may appoint, or enter up satisfaction upon the roll of their respective judgments or release and discharge their said debts as the case may be.

3. But in default of payment being made as aforesaid this Court doth further order and adjudge that the said lands or a competent part thereof be sold with the approbation of the said Master, who is to settle the conveyance or conveyances to the purchaser or purchasers in case the parties differ about the same, and that the purchaser or purchasers pay his, her or their purchase money into Court to the credit of this action subject to further order, and that the same when so paid in be applied: 1st, in payment to the plaintiff of his costs of this action as between party and party, or so much thereof as may not be personally paid by the defendants as hereinafter directed; 2nd, in payment of what shall be found due to the plaintiff and the said creditors and encumbrancers according to their priorities together with subsequent interest and subsequent costs to be computed and taxed by the said Master.

4. And this Court doth further order and adjudge that the said Master do take an account of the costs of the plaintiff as between solicitor and client and the costs, charges, expenses and disbursements of the plaintiff of and incidental to this action over and above the plaintiff's costs as between party and party, and apportion the difference among the encumbrancers entitled to share in the said moneys, including the plaintiff, in proportion to the

amounts realized for them under this decree, and that the amount of such difference be paid out of the shares of the said creditors and encumbrancers including the plaintiff in the said moneys according to such apportionment.

5. And this Court doth further order and adjudge that the defendants do pay the plaintiff his costs of this action up to and inclusive of the trial forthwith after taxation thereof.

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473. JUDGMENT SETTING ASIDE FRAUDULENT CONVEYANCE OF LAND.

At Suit of Execution Creditor.

1. This Court doth declare that the deed or conveyance from the defendant W.A.T. to the defendant F.M.T. in the pleadings mentioned of the lands and premises in question in this cause, is fraudulent and void as against the plaintiffs and the other creditors of the said defendant W.A.T. and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that it be referred to the (Master in Ordinary of this Court, *or as may be*) to inquire and state whether any persons other than the plaintiffs, have any lien, charge or encumbrance (*other than prior mortgages*), upon the said lands and to cause such persons (if any) to be served with process under the Rules of the Supreme Court of Judicature in that behalf, and that the said Master do take an account of what is due to the plaintiffs, and such encumbrancers as may come in and contribute to the expenses of this action, for principal money and interest and tax to them their costs of this action, and settle their priorities, and appoint a time and place for payment.

3. And upon the said defendants, or either of them, paying to the plaintiffs and the said encumbrancers what shall be so found due for principal, interest and costs, within one month after the said Master shall have made his report at such time and place as the said Master shall appoint, this Court doth order and adjudge that the plaintiff and such other encumbrancers do assign and convey the said lands free and clear of all encumbrances done by them, and deliver up all deeds and writings in their custody or power relating thereto upon oath to the defendants or defendants making such payment, or to whom he, she or they may appoint, or enter up satisfaction upon the records of their respective judgments as the case may require.

4. But in default of payment being made as aforesaid, this Court doth order and adjudge that the said lands be sold with the approbation of the said Master, and the purchasers are to pay their purchase money into Court to the credit of this action, subject to the order of this court, and the same when so paid in is to be

applied:—First, in payment to the plaintiffs of their costs of this action as between party and party, or such part thereof as may not be paid by the defendants as hereinafter directed. Secondly, in payment of what shall be found due to the plaintiffs and the said encumbrancers according to their priorities, together with subsequent interest and subsequent costs, to be computed and taxed by the said Master.

5. And this Court doth further order and adjudge that the said Master do also take an account of the costs of the plaintiffs as between solicitor and client and the costs, charges, expenses and disbursements of the plaintiffs of and incidental to this action over and above the plaintiffs' costs as between party and party, and apportion the difference among the encumbrancers entitled to share in the said moneys, including the plaintiffs, in proportion to the amounts realized for them under this judgment, and the amount of such difference to be paid out of the shares of the said encumbrancers, including the plaintiffs in said moneys according to such apportionment.

6. And this Court doth further order and adjudge that the defendants do pay to the plaintiff his costs of this action up to and inclusive of this judgment forthwith after taxation thereof.

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474. JUDGMENT TO ENFORCE LIEN FOR IMPROVEMENTS.

1. This Court doth declare that the plaintiff is entitled to and hath a lien upon the lands and premises in the statement of claim herein mentioned for the value of the improvements put upon the said lands and premises by the said plaintiff, as in the statement of claim mentioned, and for the amount of the moneys paid by the said plaintiff upon a certain mortgage upon the said lands and premises mentioned in the said statement of claim, and for the costs of this action, and doth order and adjudge the same accordingly.

2. And this Court doth further declare that the plaintiff is entitled to recover from the defendant the full amount of moneys or money's worth expended by the said plaintiff in the support and maintenance of one ——— in the said statement of claim mentioned together with the full amount of his (the plaintiff's) lien upon the said lands and premises and the costs of this action, and doth order and adjudge the same accordingly.

3. And this Court doth further order and adjudge that it be referred to the Master of this Court at ——— to inquire and state: (1) What is due to the plaintiff in respect of his lien aforesaid. (2) And also what is due to the said plaintiff for and in respect of the maintenance of the said ———, and to tax to him his costs of this action.

4. (*Where the defendant is personally liable*): And this Court doth further order and adjudge that the defendant do pay to the plaintiff what shall be found due to him on the taking of the accounts aforesaid, together with his said costs forthwith after the confirmation of the said Master's report.)

5. And this Court doth further order and adjudge that in case the said defendant shall make default in paying to the plaintiff the amount which shall be found due to him in respect of his said lien together with his said costs as aforesaid, the said master is to proceed (3) To inquire and state whether any person or persons, and who other than the plaintiff except prior mortgagees (if any) has or have any lien, charge or encumbrance upon the said lands and premises, and he is to cause such persons (if any) to be made parties defendant to this action in his office. (4) And the said Master is to proceed to take a further account of the amount due to the said plaintiff in respect of his said lien and costs and also of what is due to such other encumbrancer or encumbrancers (if any) for principal and interest and he is to tax to them their costs of this action, and also to settle their priorities, and to appoint a time and place for the payment of the same by the defendant within one month after the making of his report.

6. And this Court doth further order and adjudge that upon the defendant paying the amount which the said Master shall find to be due to the said plaintiff in respect of his said lien and costs, and to such other encumbrancer or encumbrancers (if any) of what shall be found due to them respectively at such time and place as the said Master shall appoint within one month after said Master shall have made his report, the said plaintiff and encumbrancers (if any) do release and discharge their said liens, or convey and assign the said premises free from all encumbrances done by them and deliver up all deeds and documents in their respective possession or power relating thereto upon oath to the said defendant or to whom he shall appoint or enter up satisfaction upon the rolls of their judgment, as the case may require.

7. And this Court doth further order and adjudge that, in default of the said defendant making such payment by the time aforesaid, the said lands and premises be sold with the approbation of the said Master, and the purchasers are to pay their purchase money into Court to the credit of this action subject to the order of this Court, and all proper parties are to join in the conveyances to the purchasers as the said Master shall direct.

8. And this Court doth further order and adjudge that the purchase money when so paid in, shall be applied; *First*, In payment to the said plaintiff of his costs of this action, together with subsequent costs to be taxed by said Master, or such part thereof as may not be recovered from the defendant under the order herein-

before contained; *Secondly,* In payment to the plaintiff of the amount of his lien or such part thereof as may not have been recovered from the defendant under the order for payment hereinbefore contained, and to such other encumbrancer or encumbrancers (if any) of the amount the said Master shall find due and payable to them respectively by the said defendant for principal money, interest and costs (other than the costs of the plaintiff as aforesaid) according to their priorities and the residue of the purchase money (if any) is to be paid to the said defendant.

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475. JUDGMENT UNDER LORD CAMPBELL'S ACT.

1. This Court doth order and adjudge that the plaintiff do recover from the defendant the sum of $———.

(*Or where the plaintiff is an infant.*)

1. This Court doth order and adjudge that the plaintiff do recover against the defendants the sum of $——— to be paid into Court by the defendants to the credit of this action: *If so* subject to the further order of this Court, *or as may be.*

2. And this Court doth further order and adjudge that the sum of $——— already paid into Court by the defendants and interest (if any) accrued thereon be applied *pro tanto* in payment of the said $———.

3. And this Court doth further order and adjudge that the defendants do pay to the plaintiff his costs of this action forthwith after taxation thereof.

(*Or where there are infants and adults interested in the moneys recovered*: And it appearing by the affidavit of ——— filed that the infant children of the said X.Y., deceased, were born on the following days, namely, G.H. on the ——— day of ——— and J.K. on the ——— day of ———.

1. This Court doth order and adjudge that the plaintiff do recover against the defendants the sum of $———.

2. And this Court doth apportion the said sum of $——— as follows, namely:

To the plaintiff A.B.....
To plaintiff C.D.....
To E.F., son of the said X.Y. .....
To the infant plaintiff G.H.....
To the infant plaintiff J.K.....

3. And this Court doth order and adjudge that the shares of the said infants be paid into Court to the credit of this action, subject to the order of this Court, and be paid out to them respectively with the interest accrued thereon as they shall respectively attain their majority, unless this Court shall in the meantime make other order concerning the same.

476. JUDGMENT AGAINST MARRIED WOMAN.

For Payment of Money.

1. This Court doth order and adjudge that the plaintiff do recover ——— dollars and costs to be taxed against the defendant C.D., such sum and costs to be payable out of the separate property of the said defendant C.D. as hereinafter mentioned and not otherwise.

2. And this Court doth further order and adjudge that execution herein be limited to the separate property of the said defendant C.D. which is not subject to any restriction against anticipation unless by reason of Section 21 of The Married Women's Property Act such property shall be liable to execution notwithstanding such restriction.

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477. JUDGMENT DECLARING THAT LAND PASSED

Under Will Notwithstanding Misdescription.

1. This Court doth declare that under the devise to the plaintiff of the north half of Lot No. 34 in the 4th Concession of the Township of ——— contained in the will of ——— deceased in the pleadings mentioned, the north half of Lot No. 33 in the 4th Concession of the said Township of ——— passed to the said plaintiff for all the estate which the said testator had therein at the time of his decease charged with the payment of the sum of $——— and interest thereon since the ——— day of ——— last, which sum is payable to the infant defendants A.B. and C.D., children of the testator's daughter ——— in equal shares, the share of each of the said infant defendants being payable upon his attaining the age of 21 years, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that until the said infant defendants attain the age of 21 years the interest at the rate of 6 per cent. per annum on their respective shares in the said fund be paid half-yearly into Court to the credit of this action.

3. And this Court doth further order and adjudge that upon the said infant defendants A.B. and C.D. respectively attaining their majority the monies to which they are respectively entitled be paid out to them with such interest as may have accumulated thereon.

4. And this Court doth further order and adjudge that the said plaintiff do pay to the official guardian his costs of this action forthwith after taxation thereof.

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478. JUDGMENT IN FAVOR OF A MORTGAGEE

Fraudulently Induced to Advance Money.

1. This Court doth declare that the defendants are liable for and bound to pay to the plaintiffs the difference between the value of

the lands and premises in the pleadings mentioned and the amount advanced by the plaintiff upon the security of the mortgage made by the defendant M. to the plaintiffs, together with the interest thereon and the costs incurred by the plaintiffs in attempting to sell the lands under the power contained in the said mortgage, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that it be referred to the Master of this Court (at ———) to take an account of the amount of the principal sum and interest secured to the plaintiffs under and by virtue of the mortgage aforesaid together with the costs and expenses incurred by them in attempting to sell the said lands and also an account of the value of said lands and premises.

3. And this Court doth further order and adjudge that the defendants do, in the event of their not electing as hereinafter mentioned, forthwith pay to the plaintiff the amount secured by the said mortgage and the interest aforesaid, together with the costs and expenses aforesaid after deducting therefrom the amount of the value of the said lands and premises.

4. And this Court doth further order and adjudge that the defendants do pay to the plaintiffs the costs of this action forthwith after taxation thereof by the said Master.

5. And this Court doth further order and adjudge that the said defendants shall be at liberty upon their electing so to do before the said Master, to pay to said plaintiffs the amount advanced by them upon the security of the said lands with interest thereon and the costs incurred by said plaintiffs in attempting a sale of said lands aforesaid and also their costs of this action, such amount and costs to be computed and taxed by said Master who is to fix a time for payment of such amount by the said defendants to the said plaintiffs one month from the making of his report.

6. And this Court doth further order and adjudge that upon the defendants making such payment, the said plaintiffs do assign the said mortgage security, or re-convey the said mortgaged premises to the said defendants or defendant making such payment by a good and sufficient deed of conveyance to be settled by the said Master in case the parties differ about the same, and do deliver upon oath to the said defendants or defendant making full payment, or to whom he or they may appoint all deeds and papers in their custody or power relating to said lands.

7. But in default of the defendants making such payment after they shall have elected so to do, this Court doth further order and adjudge that the said defendants do forthwith after the time shall have elapsed for making such payment pay to the plaintiffs the amount directed to be paid by the third and fourth paragraphs hereof with subsequent interest and subsequent costs to be computed and taxed by said Master.

479. JUDGMENT VACATING DISCHARGE OF MORTGAGE

And Declaring Mortgage to be a Subsisting Security.

1. This Court doth declare that notwithstanding the registration of the discharge of the mortgage made by the plaintiff to the ———company, in the pleadings mentioned, the plaintiff is entitled to a charge under the said mortgage made by the plaintiff to the ———company and bearing date the ——— day of ———, upon the lands in question in this action, for all moneys paid by him or on his behalf since the death of M.S. deceased, under or in respect of the said mortgage in priority to the mortgage given by the defendant B.S. to the defendant C. for $——— bearing date the ———day of ——— and registered the ——— day of ——— and that the mortgage to the ——— company before mentioned notwithstanding the registration of such discharge is a valid and subsisting security in the hands of the plaintiff for the amount of such charge and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that all necessary inquiries be made, accounts taken, costs taxed under the ——— company's mortgage, and the mortgage made by M.S to the plaintiff in the pleadings mentioned, and proceedings had for redemption or foreclosure of the premises in question in this action, having regard to the declaration aforesaid, and that for these purposes this cause be referred to (the Master in Ordinary of this Court).

3. And this Court doth not see fit to make any order as to the costs of this action up to and inclusive of this judgment, but doth order and adjudge that the subsequent costs shall be in the discretion of the said Master and paid as he shall direct (*or as may be ordered*).

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480. JUDGMENT FOR PARTITION OR SALE.

1. It is ordered and adjudged that all necessary inquiries be made, accounts taken, costs taxed, and proceedings had for the partition or sale of the lands and premises in the said affidavits mentioned, and for the adjustment of the rights of all parties interested therein, or for a partition of part and sale of the remainder of the said lands as may be most for the interest of the parties entitled to share therein by the Master in Ordinary of this Court (*or as the case may be*).

2. And it is further ordered and adjudged that the said lands or such part thereof as the said Master shall think fit, be sold with the approbation of the said Master, freed from the claims of such of the encumbrancers thereon (if any) whose claims were created by parties entitled to the said lands before the death of the said testator (or intestate) as shall have consented to such sale, and sub-

ject to the claims of such of them as shall not have consented (and freed also from the dower of ——— *or as the case may be*) and that the said Master do execute the conveyances on behalf of such of the infant parties as, by reason of their minority are unable to execute the same, and that the purchasers do pay their purchase money into Court to the credit of this action, subject to the order of this Court.

3. And it is further ordered and adjudged that, in the event of a partition of the whole of the said lands, or in the event of a partition of a part and the proceeds of the sale of the remainder being insufficient to pay the costs in full, the costs, or so much thereof as remains unpaid be borne and paid by the said parties according to their shares and interests in the said lands (*if there be any infant parties interested in the estate, add*: and that the proportion of the said costs payable by the infant parties respectively be, and the same is hereby declared to be, a lien on their respective shares, and that the plaintiff do pay the guardian of the infant defendant his costs of this action and that the same be added to his own costs).

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481. JUDGMENT ENFORCING PARTNERSHIP AGREEMENT.

With Enquiry as to Variations Therein.

1. This Court doth declare that the agreement for a co-partnership in the pleadings mentioned, dated, &c., is a binding agreement between the parties thereto, and ought to be specifically performed and carried into execution; and doth order and adjudge accordingly.

2. And this Court doth direct that it be referred to ——— to enquire whether any, and what, variations have been made in the said agreement, by and with the assent of the several parties thereto, since the date thereof; and that a proper deed of co-partnership between the said parties in pursuance of the said agreement, be settled by the Court in case the parties differ; And in settling such deed regard is to be had to any variations which may appear to have been made in the said agreement on the result of the inquiry hereinbefore directed.

3. And this Court doth order and direct that such deed of co-partnership, when agreed upon between the said parties, or when so settled, be executed by the several parties thereto.

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482. JUDGMENT DIRECTING DISSOLUTION OF PARTNERSHIP.

With Accounts.

1. This Court doth declare that the partnership in the pleadings mentioned between the plaintiff and defendant ought to be dissolved

as from the date of this judgment (*or* from the ——— day of ——— (*the day on which action commenced*); and this Court doth order and adjudge the same.

2. And this Court doth further order and direct that the following accounts and enquiry be taken, namely, accordingly:—(a) An account of all dealings and transactions between the plaintiff and the defendant as co-partners from the ——— day of ———; (b) An inquiry of what the credits, property, and effects now belonging to the said partnership consist, it being provided that any settled account be not disturbed.

483. JUDGMENT SETTING ASIDE DEED OF PARTNERSHIP.

On Ground of Misrepresentation.

1. This Court doth declare that the partnership entered into by indenture dated, &c., in the pleadings mentioned, is void (and invalid) as between the parties thereto, and that the said ——— ought to be set aside, and this Court doth order and adjudge the same accordingly.

2. And this Court doth order and direct that the said partnership (indenture) be delivered up to the ——— to be cancelled.

3. And this Court doth order and direct that the following accounts be taken, namely: (a) An account of all outstanding debts, sums of money and liabilities; (b) An account of what is due to the ——— in respect of the said sum of $——— and interest; (c) An account of all sums of money which the ——— has already paid for or in respect of the debts, liabilities, dealings and transactions of the said partnership, with interest thereon at the rate of ——— per cent. per annum from the respective times the same were advances or paid by the ———.

4. And this Court doth direct that in taking such accounts the ——— do give credit for all moneys drawn by him on account of the profits of the said partnership business, with interest thereon at the rate of ——— per cent. per annum from the respective times the same were drawn out.

484. JUDGMENT DIRECTING PARTNERSHIP ACCOUNTS.

1. This Court doth order that an account be taken of all partnership dealings and transactions between the plaintiff and the defendant as co-partners (from the ——— day of ———); And that what, upon taking the said account shall be found to be due from either of the said parties to the other of them be within (one month) from the date of the ——— report be, paid by the party from whom to the party to whom the same shall be found to be due.

485. JUDGMENT—APPOINTING RECEIVER

Of Assets of Partnership Firm and Directing Enquiries.

1. This Court doth order and adjudge that the Toronto General Trusts Company (*or as the case may be*) be, and they are hereby appointed receivers (without security and without remuneration) to receive and get in all the property both real and personal of the said firm of C.D. & Co., and of the said C.D., E.F. and G.H.

2. And this Court doth further order and adjudge that the said defendants do deliver over to the said receivers all the property, assets and effects which may have come to their hands of the said firm of C.D. & Co., or of the individual members of the said firm, subject, however, to the lien, if any, of the defendants or any of them upon the said property, assets and effects, or any portion thereof.

3. And this Court doth further order and adjudge that the said appointment is without prejudice to the rights of any prior incumbrancer or incumbrancers upon the real and leasehold property who may think proper to take possession of the same by virtue of their respective securities, and without prejudice to such possession the tenants of the said real and leasehold property are, subject as aforesaid, to pay their rents in arrears and growing rents to the said receivers who are entitled to receive the same; and the said receivers are to be at liberty if they shall think proper (but not otherwise) out of the rents and profits to be received by them to keep down the interest upon the prior incumbrances according to their priority, and also to pay charges by way of rent, taxes and insurance upon said properties and are to be allowed such payments (if any) on passing their accounts.

4. And this Court doth further order and adjudge that the said receivers do collect and get in and receive all debts due and owing to the said firm of C.D. & Co.

5. And this Court doth further order and adjudge that the said receivers do pass their accounts as such receivers as aforesaid before ———, Esquire, Official Referee, at such time and place, or times and places as he may from time to time appoint, and that the said receivers do pay the balance which may from time to time be certified to be in their hands into Court to the credit of this action subject to the further order of this Court.

6. And this Court doth further order and adjudge that it be referred to the said Official Referee to take the following accounts and make the following enquiries:—

(*a*) An enquiry of what the credits, property and effects now belonging to said partnership consist.

(*b*) An enquiry to settle and ascertain the names of creditors of the said firm of C.D. & Co., and the amounts due to them respectively.

(*c*) An enquiry as to the priorities of claims of creditors of the said firm of C.D. & Co.

7. And this Court doth further order and adjudge that the said Official Referee be at liberty to make an interim report forthwith after the accounts referred to in paragraph 6 are taken.

8. And this Court doth further order and adjudge that the said plaintiff and defendants or any or either of them be at liberty to apply to the Court from time to time for such further or other directions as occasion may require.

9. And this Court doth further order and adjudge that further directions and the question of costs of this action be reserved until after the said Official Referee shall have made his report.

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486. JUDGMENT FOR RECOVERY OF LAND.

Where Limited Appearance Entered.

The appearance herein having been limited to part only of the land mentioned in the writ of summons, namely: (*describing the part to which the defence is limited*), and no appearance having been entered as to the remaining part of the said land, it is this day adjudged that the plaintiff recover possession of the said remaining part of the said land, namely: (*describing the remaining part.*)

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487. JUDGMENT FOR POSSESSION AND RENT.

Where a Claim for Arrears of Rent Has Been Specially Indorsed on Writ.

No appearance having been entered to the writ of summons herein: It is this day adjudged that the plaintiff recover possession of the land in the indorsement on the writ described as (*describing the property as in the writ*), and also $——— on the said indorsement claimed for arrears of rent, and costs to be taxed.

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488. JUDGMENT FOR RECOVERY OF LAND.

In Default of Appearance by One of Several Defendants.

The above-named defendant C.D. not having appeared to the writ of summons herein: It is this day adjudged that the plaintiff recover against the said defendant C.D. possession of the land in the indorsement on the writ described as, (*insert description*) (but execution hereon is not to issue unless and until judgment has been recovered by the plaintiff against all the defendants herein).

489. JUDGMENT FOR RECOVERY OF LAND.

On Confession by Defendant. (*Rule 597.*)

The defendant C.D. having confessed this action (*or* having confessed this action as to part of the said land, that is to say: (*state the part*) it is this date adjudged that the said plaintiff do recover possession of the land in the writ (*or* statement of claim) mentioned, (*or* of the said part of the said land), with the appurtenances, and costs to be taxed (*or* $——— for costs).

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490. JUDGMENT FOR RECOVERY OF LAND.

In Default of Appearance. (*Rule 582.*)

No appearance having been entered to the writ of summons herein, it is this day adjudged that the plaintiff recover possession of the land in the said writ mentioned, being (*describing the land*). (*Where plaintiff is so entitled under Rule 585, add* "and do also recover against the said C.D. (*the defendant*) his costs to be taxed *or* $——— for costs.)

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491. JUDGMENT FOR RECOVERY OF LAND.

In Default of Defence. (*Rule 590.*)

No statement of defence having been delivered herein, it is this day adjudged that the plaintiff recover possession of the land in the statement of claim herein mentioned, being (*description*) and do also recover against the said C.D. (*the defendant*) his costs to be taxed (*or* $——— for costs).

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492. JUDGMENT FOR RECOVERY OF LAND AND DAMAGES.

In Default of Defence. (*Rule 591.*)

The defendant not having delivered any statement of defence, it is this day adjudged that the plaintiffs recover possession of the land in the statement of claim herein mentioned and described as (*description*) and costs to be taxed, and it is further adjudged that the plaintiffs recover against the defendant damages to me assessed.

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493. JUDGMENT FOR RECOVERY OF CHATTELS.

In Default of Appearance or Defence. (*Rules 577, 588.*)

The defendants (*or* the defendant C.D.) not having appeared herein (*or* not having delivered any statement of defence), it is this day adjudged that the plaintiff recover against the said defendant (*or* that the said defendant do forthwith deliver to the plaintiff) possession of the chattels in the writ (*or* statement of claim) mentioned, and do also recover against the said defendant his costs to be taxed (*or* $——— for costs.)

494. JUDGMENT FOR DEFENDANT IN REPLEVIN ACTION.

Directing Return of Goods Replevied.

1. This Court doth order and adjudge that the plaintiff recover nothing against the defendants.

2. And this Court doth further order and adjudge that the defendant J.W. have a return of the (*pianoforte*) and other goods and chattels replevied by the Sheriff of the County of ——— and mentioned in the ——— paragraph of the statement of claim herein to hold to him irrepleviable forever.

3. And this Court doth further order and adjudge that if the said goods and chattels are not forthwith returned to the said defendant, the said defendant do recover against the plaintiff the sum of $——— damages, the value of his interest in said goods.

4. And this Court doth further order and adjudge that the defendants recover from the plaintiff their costs of this action to be taxed.

495. JUDGMENT SETTING ASIDE DEED OF LAND.

1. This Court doth declare that the deed or conveyance in question herein bearing date the ——— day of ———, 19—, purporting to convey from the plaintiff to the defendant all and singular (*describe the lands*), is null and void, and that the same ought to be set aside, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the plaintiff recover against the defendant his costs of this action forthwith after taxation thereof.

496. JUDGMENT ALLOWING SET-OFF OF COSTS.

On High Court Scale against Costs on Division Court Scale.

1. This Court doth order and adjudge that the said defendant C.D. do pay to the plaintiff the sum of $——— and costs on the Division Court scale, and that the defendant C.D. be entitled to set off against such sum and costs the costs of action of the said defendant as between solicitor and client upon the High Court scale, and that the plaintiff do pay to the said defendant the excess, if any, in his favor forthwith after taxation thereof.

497. JUDGMENT FOR SPECIFIC PERFORMANCE.

Of Contract for the Sale of Lands.

1. This Court doth declare that the agreement dated the ——— day of ———, 19—, in the pleadings mentioned constituted a binding contract between the plaintiff and the defendants for the sale by the defendants to the plaintiff of (*describe the lands*) situate in

the ——— of ——— in the County of ——— for the price or sum of ——— dollars, and that the same ought to be specifically performed and carried into effect (with a proportionate abatement of the purchase money (in respect of the interest of the wife of the said defendant therein, *or*, but to the amount only of what would be the value of the deficiency of the land in the pleadings mentioned covered with wood, after deducting the value of the wood thereon, *or as the case may be*) and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the following inquiry be made, namely: An inquiry whether a good title can be made to the said lands; and in case a good title can be made thereto, this Court doth order that interest be computed at the rate of ——— per centum per annum on the said sum of ——— dollars, the purchase money for the said lands comprised in the said agreement, from the ——— day of ———, 19—, when the same ought to have been paid according to the terms of the said agreement (an inquiry what is the amount to be paid by the plaintiff for purchase money having regard to the abatement aforesaid).

3. And this Court doth further order and adjudge that the following account be taken, namely: An account of the rents and profits of the said land received by the defendants or any of the them, or by any other person or persons by their or any of their order, or for their or any of their use, since the ——— day of ———, 19—.

4. And this Court doth further order and adjudge that it be referred to ——— to tax the plaintiff's costs of this action.

5. And this Court doth further order and adjudge that the amount which shall be found on the taking of said account of rents and profits, and the amount of the said costs when taxed, be deducted from the amount of the said purchase money and interest when so computed as aforesaid.

6. And this Court doth further order and adjudge that upon the plaintiff paying to the defendants the balance which shall be certified to be due to them in respect of such purchase money and interest after such deduction as aforesaid, the defendants do execute a proper conveyance of the said lands to be settled by (the Senior Registrar of this Court) in case the parties differ, comprised in the said agreement to the plaintiff or to whom he shall appoint, and that the defendants do deliver to the plaintiff (upon oath if required) all deeds and writings in their custody or power relating thereto.

498. JUDGMENT FOR SPECIFIC PERFORMANCE.

Of Contract for the Sale of Lands.

(*Another Form.*)

1. This Court doth declare that the plaintiff is entitled to specific performance of the agreement in the pleadings mentioned and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the defendant do forthwith pay to the plaintiff the overdue instalments of the purchase money of the lands and premises in the pleadings mentioned amounting to the sum of ——— dollars with interest on the sum of ——— dollars, being the first of said instalments, from the ——— day of ———, 19—, amounting to ——— dollars, and also with interest on the sum of ——— dollars, being the second of said instalments, from the ——— day of ———, 19—, amounting to ——— dollars, being in all the sum of ——— dollars.

3. And this Court doth further order and adjudge that the defendant be and he is hereby restrained from cutting, removing, selling or otherwise dealing with the wood or timber upon the said lands and premises, until he has performed the said agreement and made such payments as are above mentioned.

4. And this Court doth further order and adjudge that the defendant do pay to the plaintiff the costs of this action forthwith after taxation thereof.

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499. JUDGMENT FOR SPECIFIC PERFORMANCE.

Reference as to Title.

1. This Court doth declare that the plaintiff is entitled to have the agreement for the purchase of the lands mentioned in the plaintiff's statement of claim specifically performed in case the plaintiff can make a good title to the said lands and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that it be referred to the (Master in Ordinary of this Court) to inquire and state whether the plaintiff can make a good title to said lands.

3. And this Court doth further order and adjudge that the defendant do pay to the plaintiff his costs of this action up to and inclusive of this judgment forthwith after taxation thereof.

4. And this Court doth reserve further directions and the question of subsequent costs until after the said Master shall have made his report.

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500. JUDGMENT DECLARING SUCCESSION DUTY PAYABLE.

1. This Court doth declare that the plaintiff as representing His Majesty the King is entitled to succession duty upon the moneys

referred to in the pleadings and upon the interest accrued thereon up to the date of the death of D.S., in the pleadings mentioned, and doth order and adjudge the same accordingly.

2. And an account having been taken of the amount of such succession duty this Court doth find that the same amounts to the sum of $———.

3. And this Court doth further order and adjudge that the defendant do pay to the plaintiff the costs of this action forthwith after taxation thereof.

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501. JUDGMENT RESTRAINING INFRINGEMENT OF TRADE MARK.

1. This Court doth order and adjudge that the defendants their servants, workmen, and agents, be and they are hereby perpetually restrained from (stamping or impressing on boxes containing paper collars sold by or for them, and from attaching or affixing to boxes containing paper collars any labels or tickets having stamped or impressed thereon, and from selling or exposing for sale or causing to be sold or exposed for sale any boxes containing paper collars and having applied or attached thereto, the fraudulent and counterfeit mark or stamp comprised of and containing the device, emblem or representation of a ——— or any other mark or stamp in imitation or counterfeit of the mark or stamp used by the plaintiff on the boxes containing the paper collars manufactured by the plaintiffs or any mark or stamp contrived or devised or calculated or intended to mislead or entrap unwary purchasers or others into purchasing the paper collars contained in boxes bearing such imitation or counterfeit marks or stamps as or for paper collars of the genuine manufacture of the plaintiff.)

2. This Court doth further order and adjudge that the defendants do forthwith pay to the plaintiff the sum of ——— dollars, being the profits realized by the said defendants from the sale of (the paper collars) sold by them and contained in boxes having the said counterfeit mark or stamp attached thereto.

3. This Court doth further order and adjudge that the said defendants do forthwith destroy all the labels now in their possession or under their control which are counterfeits of the plaintiff's said trade mark.

4. And this Court doth further order and adjudge that the defendants do within one week after the service of this judgment on them or their solicitor, or his agents, make and file a full and sufficient affidavit specifying what and how many of the labels which are counterfeits of the plaintiff's said trade mark were in the possession or under the control of the defendants on the ——— day of ———, 19—, and where the same are at the time such affidavit is sworn, and if the said counterfeit labels or any of them have been destroyed the time, place and mode of such destruction.

502. JUDGMENT ESTABLISHING WILL.

1. This Court doth declare that the paper writing, dated the ——— day of ———, A.D. 19—, in the pleadings set forth and purporting to be the last will and testament of A.B., is the last will and testament of the said A.B., and doth order and adjudge the same accordingly.

2. And this Court doth further declare that the interlineations, erasures, and cancellations appearing to have been made in the said last will and testament subsequent to the execution and publication thereof by the testator, to wit (*here specify same*), are inoperative, and that the said will ought to be read and construed as though such last-mentioned interlineations, erasures and cancellations had never been made in the said will, and doth order and adjudge the same accordingly.

3. And this Court doth further declare that the said defendant C.D., the widow of the said A.B., is not under the said will put to her election between the provisions made for her benefit in the said will and her rights as doweress and as widow of the said testator, and doth order and adjudge the same accordingly.

4. And this Court doth further declare that the devise of the premises (*description*) in the said will contained to ——— is a valid devise to the said ———, and doth order and adjudge the same accordingly.

5. And this Court doth further declare that the devise of the premises (*description*) to the said E.F. for life and from and after his decease to the defendant ——— was revoked by the sale of the said devised premises by the testator in his lifetime, and doth order and adjudge the same accordingly.

6. And this Court doth further order and adjudge that it be referred to the Master of the Supreme Court of Judicature for Ontario at ——— to take and make all such accounts, proceedings and enquiries as he may find to be necessary for the purpose of winding up and distributing the estate of the said testator according to the practice of this Court, and the executors are to pay into Court to the credit of this action as the said Master shall direct any balance which may be found in their hands.

7. And this Court doth further order and adjudge that such parts of the said estate as the said Master shall direct shall be sold with the approbation of the said Master, and the purchasers are to pay their purchase money into Court to the credit of this action, and all proper parties are to join in the conveyances as the said Master shall direct.

8. And this Court doth further order and adjudge that the said Master do enquire and state whether it would be for the interest of the parties that the whole or any part of the real estate of the testator in which the said C.D. is entitled to dower and which may

be sold under this judgment, should be sold free from or subject to such dower, and the said lands are to be sold free from or subject to such dower accordingly, and the said Master is to fix a sum in gross to be paid by the said C.D. in lieu of dower in such of the said lands as shall be sold freed from her said dower.

9. And this Court doth further order and adjudge that the said Master do tax to all parties their costs of this action, those of the executors between solicitor and client, and that such costs be borne by the personal estate if sufficient, and if the personal estate be insufficient for the payment thereof, then the same or such part thereof as the personal estate shall be insufficient to pay are to be borne by the real estate.

10. And this Court doth further order and adjudge that the proceeds of the said estate when paid into Court be paid out as the said Master shall direct.

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503. JUDGMENT AS TO CHARITABLE GIFTS.

And this Court doth further declare that the charitable gifts in said will bequeathed, are null and void as being contrary to the Mortmain and Charitable Uses Act, except the devise in favour of ——— ,which is hereby declared to be a good and valid devise (*as the case may be*), and doth order and adjudge the same accordingly.

III.—Settling Judgments.

504. APPOINTMENT TO SETTLE JUDGMENT.

(*Short Style of Clause.*)

I hereby appoint the ——— day of ———, 19—, at the hour of ——— o'clock in the ———noon, at my Chambers (*or* office), at Osgoode Hall, Toronto (*or* in the Court House ———, at ———, in the ——— of ———), to (settle the minutes of judgment pronounced by the Hon. Mr. Justice ——— at the trial herein, or *as may be the case.*)

Dated this ——— day of ———, 19—.

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505. CERTIFICATE OF OFFICER AFTER TRIAL.

(*Rule 559.*)

(*Court and Style of Cause.*)

I certify that this action was tried before the Honorable Mr. Justice ——— (and a special jury of the County of ———) on the ——— and ——— days of ———, 19—, in presence of counsel for ——— and ———, *or if so add* no one appearing for ———.

(The Jury found (*state findings*).

(*If the Judge gave instructions as to the judgment thereon, add*: And the said Judge directed, &c., *as the case may be.*)

Dated, &c.

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506. NOTICE OF MOTION TO VARY MINUTES OF JUDGMENT.

On behalf of the plaintiff (*or*, defendant A.B.) that the minutes of the judgment (*or* order) pronounced in this cause (*as may be*) on the ——— day of ———, 19—, as settled by the Registrar, may be varied or altered in the respects following, namely: (*specify the particular matter to be added, or altered*).

IV. EXEMPLIFICATION OF JUDGMENTS, CERTIFICATES, &c.

507. EXEMPLIFICATION OF JUDGMENT.

Dominion of Canada,
Province of Ontario,
County of York,
To Wit:

GEORGE THE FIFTH, by the Grace of God of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To All to Whom these Presents shall come, Greeting:

Know ye that amongst the records of our (*name of Court*), the same being a Court of Record in our Province of ———, there appears in the Judgment Book No. —— of our said Court at ———, an entry of judgment numbered —— of the year 19—, in the words and figures following that is to say:—(*Copy Judgment verbatim*).

(Seal)

All and Singular which Premises by the tenor of these Presents, we have commanded to be exemplified.

Witness the Honorable ——— President of ———, *or* His Honour ——— Judge of the County Court of the County of ——— (*or as the case may be*) at ———, this ——— day of ———, A.D. 19—.

(*Clerk.*)

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508. CERTIFICATE VERIFYING JUDGMENT

Or Other Document.

Dominion of Canada,
Province of Ontario,
To Wit:

I, ——— of the (City of Toronto, Clerk of Records and Writs) of the High Court of Justice for Ontario, do hereby certify that the annexed paper writing, each page of which is stamped with the seal of the (Central Office of) said Court as identifying the same,

contains a true copy of (Judgment *or as may be*) in the (Central Office), in a certain action (*or* proceeding) in said Court.

That I have carefully compared the said copy with the original ——— in the said (Central Office), that it is a true transcript thereof, and that I am the officer duly authorized to give this certificate.

In witness whereof I have hereunto set my hand and the seal of the said Court this ——— day of ———, A.D. 19—.

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509. CERTIFICATE AS TO SIGNATURE

Of Officer of the Court Signing Certificate.

Dominion of Canada,
Province of Ontario,
To Wit:

I, the Honourable ——— of the City of Toronto, in the Province of Ontario, (President) of the High Court of Justice for Ontario, do hereby certify that ——— whose signature is given in the annexed certificate is the (Clerk of Records and Writs) of the High Court of Justice for Ontario, and that I am well acquainted with his signature, and that his signature to the said Certificate is genuine and that all of his acts as such (Clerk of Records and Writs) are entitled to full credence.

Witness my hand this ——— day of ——— in the year of our Lord 19—.

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510. JUDGE'S CERTIFICATE.

Of County Court Clerk's Signature.

Province of Ontario,
County of York,
To Wit:
Dominion of Canada,

In the Matter of a judgment obtained in the County Court of the County of ——— by Plaintiff against Defendant.

I, C.D., Esquire (Senior) Judge of the County Court of the County of ——— do hereby certify:

That, A.B., whose signature appears on the exemplification of judgment hereunto annexed is the Clerk of the said Court having the custody of the seal of the said Court and of the Records therein (with authority to sign and attest exemplifications of all judgments obtained in the said Court.)

And further I do hereby certify that the signature "A.B." appearing on the said exemplification of judgment as the signature of such Clerk is the true and genuine signature of the said A.B. and of his proper handwriting, and that all of his acts as such Clerk are entitled to full credence.

Dated at ——— this ——— day of ———, 19—.

(Seal.)

511. PROVINCIAL SECRETARY'S CERTIFICATE.

Ontario.

DEPARTMENT OF THE SECRETARY AND REGISTRAR.

(Seal.)

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To All to Whom These Presents shall come, Greeting:

These are to certify that the County Court of the County of ——— (*or* the High Court of Justice *or as the case may be*) is a duly and lawfully constituted Court of record in Our Province of Ontario.

That C.D., Esquire, is the (senior) Judge (*or* one of the Judges *or as may be*) of the said Court and that the name "C.D." attached to the certificate under the within exemplification of judgment written is the true signature of the said C.D. and of his proper handwriting.

That full faith and credence are due and ought to be given to such signatures and acts in all places.

And that the Seal attached to the within exemplification of Judgment is the true and genuine Seal of the County Court of the said County of ——— (*or as may be.*)

Given under the Great Seal of Our Province of Ontario.

Witness, His Honor, ——— Lieutenant-Governor of our Province. At Toronto, this ——— day of ——— in the year of our Lord one thousand nine hundred and ——— and in the ——— year of our Reign.

By Command:

(Assistant) Provincial Secretary.

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512. CERTIFICATE OF JUDGMENT OR ORDER FOR REGISTRATION.

IN THE HIGH COURT OF JUSTICE.

This is to certify that by a ——— bearing date the ——— day of ———, A.D. 19—, and made by the said Court in a certain action therein pending, wherein ——— is plaintiff, and ——— defendant, upon the application of ———, it was ordered that (*state what*).

And this is further to certify that the lands in question in the said action are the following, that is to say: (*set out description*).

And at the request of ——— this certificate is given for the purpose of registration pursuant to the Statute in that behalf.

Given under my hand, and the seal of (the said Court), this ——— day of ———, A.D. 19—.

513. CERTIFICATE OF RETURN OF JUDGMENTS.

(*Rule 36.*)

List of judgments entered in the office of the Deputy Clerk of the Crown (*or* Deputy Registrar *or* Local Registrar, *as the case may be*) of the County of ——— during the three months ending the ——— day of ———, 19—:

(1) Plaintiff ——— Defendant. (*names in full.*)

(2) Date of entry of judgment.

(3) Against whom the judgment is signed.

(4) The amount recovered, or other relief given, exclusive of costs.

(5) The amount of costs taxed.

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514. SATISFACTION PIECE.

(*Rule 643.*)

(*Court and Style of Cause.*)

Satisfaction is acknowledged of the judgment against C.D. defendant in this action for $ [illegible] debt and $ [illegible] costs. And I, A.B., do hereby expressly nominate and appoint L.M. solicitor to witness and attest my execution of this acknowledgment of satisfaction.

Judgment entered on the ——— day of ———, 19—.

Signed by the said A.B. on the ——— day of ———, 19—, in the presence of me L.M. of ——— one of the solicitors of the Supreme Court of Judicature for Ontario. And I hereby declare myself to be solicitor for and on behalf of the said A.B. expressly named by him and attending at his request to inform him of the nature and effect of this acknowledgment of satisfaction (which I accordingly did before the same was signed by me). And I also declare that I subscribe my name hereto as such solicitor.

(*Signature of the above named plaintiff.*)

(*Signature of solicitor.*)

CHAPTER XIX.

TAXATION OF COSTS.

515. ORDER FOR DELIVERY AND TAXATION.

Of Solicitor's Bill of Costs. (*Rule 1184.*)

Upon the application of ———, and the applicant hereby submitting to pay what, if anything, shall be found due to the said solicitor upon the taxation of the bill hereinafter mentioned:

1. It is ordered that the above named solicitor do, within 14 days from the service of this order, deliver to the applicant a bill of his fees, charges and disbursements, and that the same, when delivered, be referred to the ——— to be taxed.

516. ORDER TO TAX SOLICITOR'S BILL.

After Action Brought.

1. It is ordered that the plaintiff's bill of costs, charges and disbursements, delivered to the defendant, for the recovery of which this action is brought, be referred to ——— to be taxed, and that the plaintiff give credit at the time of taxation for all sums of money by him received from or on account of the defendant.

2. And it is further ordered that the taxing officer tax the costs of the reference and certify what upon such reference shall be found to be due to or from either party in respect of the bill and demand and of the costs of the reference, pursuant to the statute.

3. And it is further ordered that the plaintiff do not prosecute this action touching the demand pending the reference.

4. And it is further ordered that upon payment of what (if anything) may appear to be due to the plaintiff, together with the costs of this action (which are to be also taxed and paid), all further proceedings therein be stayed, and that the costs of this application be ———.

517. ORDER TO TAX SOLICITOR'S BILL OF COSTS

Already Delivered.—On Application of Client.—Order Issued on Præcipe. (*Rule 1184.*)

IN THE HIGH COURT OF JUSTICE.

———day the ——— day of ———, 19—.

IN THE MATTER of A.B., one of the Solicitors of the Supreme Court of Judicature.

Upon the application of ———, and the applicant submitting to pay what, if anything, shall be found due to the said solicitor upon taxation of the bill hereinafter mentioned:

1. It is ordered that the bill of fees, charges and disbursements delivered to the applicant by the above named solicitor be referred to ——— to be taxed.

518. ORDER TO TAX SOLICITOR'S BILL OF COSTS

On Solicitor's Application. (*Rule 1184.*)

(*Title, Date, &c., as in Preceding Form.*)

Upon the application of the above named solicitor:

1. It is ordered that the bill of fees, charges and disbursements delivered by the said solicitor to ——— be referred to ——— to be taxed.

---

519. APPOINTMENT TO TAX COSTS.

In the High Court of Justice (*or Court of Appeal for Ontario.*)

(*Short Style of Cause.*)

I hereby appoint ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, at my Chambers at Osgoode Hall in the City of Toronto to tax the Plaintiffs' Costs of action (*or as the case may be*).

Dated the ——— day of ———, 19—.

---

520. AFFIDAVIT OF DISBURSEMENTS.

Witnesses and Counsel.

I, A.B., of the city of ———, in the County of ———, merchant, the above-named plaintiff (*or* defendant) make oath and say:

1. That Notice of Trial was given in this action for the sittings of this Court for the trial of actions without a jury (*or as the case may be*) holden at ———, in the County of ——— and that the same was tried before the Honourable Mr. Justice ——— on the ——— day of ———, A.D. 19—.

2. That a Subpœna *ad testificandum* was issued out on the part of me the said ——— and that the several persons, whose names are set forth in the first column of the schedule endorsed hereon, were each of them severally subpœnaed as witnesses on the part of me, the said ———, at the several places mentioned in the fourth column of the said Schedule.

3. That all the said witnesses were necessary and material for me the said ———, and did attend at the time and place when the said cause was so disposed of, and that they did not attend as witnesses in any other cause, to my knowledge and belief.

4. That the usual place of abode of each of the said witnesses is distant from the place of trial aforesaid the number of miles set opposite to his or her name in the third column of the said Schedule, and that their respective places of abode are the places mentioned in the second column of the said Schedule.

5. That each of the Witnesses necessarily travelled in going to and returning from the said place of trial the number of miles set opposite to his or her name, in the fifth column of the said Schedule.

6. That each of the said Witnesses was necessarily absent from his or her respective place of abode, in going to, staying at, and returning from the said place of trial the number of days set opposite to his or her name, in the sixth column of the said Schedule.

7. That I paid or caused to be paid to each of the said several Witnesses, for his or her loss of time, trouble and expense, in going to, remaining at, and returning from the said place of trial, the sum set opposite to his or her name, in the seventh column of the said Schedule.

8. That the said (*name of professional witness, if any*) was subpœnaed, and called upon to give evidence in this cause, in consequence of professional services rendered by him.

9. That I paid the following fees to counsel:

10. That I was a necessary and material witness on my own behalf in this cause, and upon advice of my solicitor in this cause I did attend at the said time and place as such Witness, when the said cause was so disposed of, and I did so attend for the purpose of superintending the trial, but solely as such Witness, and I should not have so attended if I had not been required as such Witness.

11. That I reside at ——— aforesaid, ——— miles from the said place of trial, and in going to and returning from the said place of trial I necessarily travelled a distance of ——— miles, and in going to, staying at, and returning from the said place of trial I was necessarily absent from my said residence ——— days.

12. That I necessarily paid for my expenses of travelling and staying at the said place of trial, the sum of $———.

13. That I did not attend at the said Court as a Witness in any other cause.

SCHEDULE.

1	2	3	4	5	6	7
Names of Witnesses.	Residence	Number of miles from place of Trial.	Where Subpœnaed.	Number of miles necessarily travelled in going to and returning from	Number of days going to, staying at and returning from	Amount paid to Witnesses for loss of time, &c.

521. AFFIDAVIT OF DISBURSEMENTS.

Maps or Plans. (*Rule 1174.*)

1. I am the above-named plaintiff (*or* solicitor for the above-named plaintiff).

2. In preparing for the trial of this action, I procured to be made for the purposes of the said trial the plan now shown to me, and marked exhibit "A," to this my affidavit.

3. The said plan was prepared by ———, Civil Engineer, and the said plan was necessary for the purposes of the said trial, and was used thereat.

4. I paid to the said ——— the sum of $——— for preparing the said plan.

522. OBJECTIONS TO TAXATION.

(*Formal Parts.*)

Objections taken by the plaintiff (*or* defendant) to the taxation by ———, Esq., Deputy Clerk of the Crown of the High Court of Justice in and for the County of ——— at ——— (*or as the case may be*) of the bill of costs of the defendant (*or plaintiff*) under the judgment (*or* order) herein dated the ——— day of ——— 19—.

The plaintiff objects to the allowance (*or* disallowance) of the items in the said bill hereinafter set forth for the following reasons:

No. of objection.	Page of bill.	No. of item.	Reasons for allowance (*or* disallowance).

Dated at ——— the ——— day of ———, 19—.

To ———,

Solicitor for ———. Solicitor for ———.

523. APPOINTMENT FOR COSTS OF EXAMINATIONS.

I hereby appoint ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, at my Chambers at Osgoode Hall in the City of Toronto, to pass upon the application of the ——— for allowance of costs of examining the ——— for discovery and for increase of fees in the discretion of a Taxing Officer at Toronto.

Dated, &c.

524. FIAT OF ALLOWANCE OF COSTS OF EXAMINATIONS AND INCREASED FEES.

The officer taxing the plaintiff's costs will allow the costs of examining the defendant for discovery with a fee of $——— attending thereon, and a fee of $——— attending on the examination of the plaintiff for discovery and a fee of $——— attending at the trial herein.

Dated, &c.

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525. APPOINTMENT TO REVISE COSTS.

I hereby appoint ——— day the ——— day of ———, 19—, at my Chambers at Osgoode Hall, Toronto, at the hour of ——— o'clock in the ——— noon to revise the taxation of the costs of all parties herein.

Dated, &c.

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526. APPOINTMENT TO TAX COSTS

And Fix Costs of Parties Not Bringing in Bills.

I hereby appoint ——— day the ——— day of ———, 19—, at my Chambers at Osgoode Hall, Toronto, at the hour of ——— o'clock in the ——— noon to tax the costs of all parties under the order (*or* judgment) of the Hon. Mr. Justice ——— dated the ——— day of ———, 19—, and to fix the costs of all parties not bringing in bills.

Dated, &c.

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527. APPOINTMENT TO TAX COSTS IN COURT OF APPEAL.

I hereby appoint ——— day the ——— day of ———, 19—, at my Chambers at Osgoode Hall, Toronto, at the hour of ——— o'clock in the ——— noon to tax the costs of ——— under the certificate of the Court of Appeal of Ontario dated the ——— day of ———, 19—, and to pass upon the application of the ——— for the allowance of the costs of examining the ——— for discovery, and for increased fees in the discretion of a taxing officer at Toronto.

Dated, &c.

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528. CERTIFICATE OF TAXATION.

(*Court and Style of Cause.*)

I certify that pursuant to the judgment (*or* order) herein dated ——— (*or* the request of the Master in Ordinary *or as may be*) I have taxed the costs of the ——— at $———.

Dated, &c.

CHAPTER XX.

ENFORCING JUDGMENTS AND ORDERS.

529. PRÆCIPÉ FOR WRIT OF FIERI FACIAS.

(*Rule 866.*)

(*Court and Style of Cause.*)

Required a writ of *fieri facias* directed to the Sheriff of ——— to levy against C.D. the sum of $——— debt and interest thereon at the rate of ——— per centum per annum from the ——— day of ———, 19—, and $——— costs and interest thereon at the rate of ——— per centum per annum from the ——— day of ———, 19—.

Judgment (*or* order) dated the ——— day of ———, 19—.

Taxing Master's certificate dated the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

530. WRIT OF FIERI FACIAS.

(*Court and Style of Cause.*)

GEORGE THE FIFTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To the Sheriff of ———, Greeting:

We command you that of the goods and chattels and lands and tenements in your bailiwick of C.D. (*where the execution debtor is a firm substitute after* "tenements" the following "of (*describing the firm as in the judgment or order*) and (*in the case mentioned in Rule 228*) of the goods and chattels and lands and tenements of A.B. a partner in the firm of ———) (*where the execution debtor is a married woman insert here*) being her separate property* and not subject to any restriction against anticipation unless by reason of section 21 of the Married Women's Property Act, such property shall be liable to execution notwithstanding such restriction: *where the judgment is for an ante-nuptial debt, it should provide that the execution be against separate property whether subject to any restriction against anticipation or not, and the execution will follow the judgment and proceed after** whether subject to any restriction against anticipation or not) you cause to be made the sum of $——— and also interest thereon from the ——— day of ——— (*day of the judgment or order, or day on which the money is directed to be paid, or day from which interest is directed by the*

order to run, as the case may be), which said sum of money and interest were lately before the Justices of our High Court of Justice in a certain action (*or* certain actions, *as the case may be*) wherein A.B. is plaintiff and C.D. and others are defendants (*or* in a certain matter there depending intituled "In the matter of E.F.," *as the case may be*) by a judgment (*or* order *as the case may be*) of our said Court bearing date the ——— day of ——— adjudged (*or* ordered *as the case may be*) to be paid by the said C.D. to A.B. and also the further sum of $——— for the taxed costs of the said A.B. mentioned in the said judgment (*or* order *as the case may be*) together with interest thereon from the ——— day of ———, (*the date of the certificate of taxation. The writ must be so moulded as to follow the substance of the judgment or order*) and that you have before our Justices aforesaid, at Toronto so much of the money as you shall have made from the said goods and chattels immediately after the execution hereof, and so much thereof as you shall have made from said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be paid to the said A.B. in pursuance of the said judgment (*or* order *as the case may be*). And in what manner you shall have executed this our writ make appear to your Justices aforesaid at Toronto immediately after the execution thereof, and have there then this writ.

Witness, the Honourable ——— President of our said Court this day of ———, 19—, and in the ——— year of our reign.

INDORSEMENTS.

The ——— is entitled to receive from this and other writs and every renewal of the same, the following sums, which include placing the same in the sheriff's hands and all attendances, indorsements, letters, etc., viz.:

(Signature of Officer.)

For this writ, $6.
For 1st renewal ———.
For 2nd renewal ———.
Etc., etc., (*as may be necessary.*)

Levy $——— and $——— for costs of execution, and also interest on $——— at five per centum per annum from the ——— day of ———, 19—, until payment; besides sheriff's poundage officer's fees, costs of levying and all other legal incidental expenses.

This writ was issued by ——— of ——— agent for ——— of ——— solicitor for the ———.

INDORSEMENT IN MARGIN.

Issued from the ——— office of the ——— of the High Court of Justice, in the County of ———.

531. WRIT OF FIERI FACIAS.

Against a Married Woman and Another.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

We command you that of the goods and chattels and lands and tenements in your bailiwick of C.D., and also of the goods and chattels and lands and tenements in your bailiwick of E.F. being her separate property and not subject to any restriction against anticipation, unless by reason of section 21 of *The Married Women's Property Act* such property shall be liable to execution notwithstanding such restriction, &c., &c., (*as in the preceding form.*)

Place of issue in margin. Indorsements as in preceding form.

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532. WRIT OF FIERI FACIAS.

Against an Executor or Administrator on a Judgment de bonis testatoris et si non de bonis propriis *as to the costs.*

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

We command you that of the goods and chattels and lands and tenements in your bailiwick, which were of C.D., deceased, at the time of his death in the hands of E.F. executor of the last will and testament (*or* administrator of the estate and effects) of the said C.D. to be administered, you cause to be made the sum of $——— and also interest at the rate of five per centum per annum from the ——— day of ———, 19—, which said sum of money and interest were lately before the Justices of our High Court of Justice in a certain action wherein A.B. is plaintiff and E.F., as such executor (*or* administrator) as aforesaid, is defendant, by a judgment of our said Court bearing date the ——— day of ———, 19—, adjudged to be paid by the said E.F. as executor (*or* administrator) as aforesaid to the said A.B. And further, that of the goods and chattels and lands and tenements in your bailiwick which were of C.D., deceased, at the time of his death in the hands of E.F. as executor (*or* administrator) as aforesaid to be administered, if the said E.F. has so much in his hands to be administered you further cause to be made the sum of $——— for the taxed costs of the said A.B. mentioned in the said judgment, together with interest thereon at the rate of five per centum per annum from the ——— day of ———, 19—, and that if he has not so much you cause to be made of the proper goods and chattels and lands and tenements in your bailiwick of the said E.F. the said sum of $———, together with interest thereon as aforesaid, and that you

have before us in our said Court so much of that money and interest as you shall have made from the said goods and chattels immediately after the execution hereof, and so much thereof as you shall have made from the said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be paid to the said ——— in pursuance of the said judgment. And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof. And have there then this writ.

Witness, etc.

Place of issue in the margin and indorsements as in Form No. 530.

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533. WRIT OF FIERI FACIAS.

On a Judgment or Order for Costs.

(Court and Style of Cause.)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

We command you that of the goods and chattels and lands and tenements of ——— in your bailiwick you cause to be made the sum of $——— for certain costs which by a judgment (*or* an order) of our High Court of Justice dated the ——— day of ———, 19—, were adjudged (*or* ordered) to be paid by the said ——— to ——— and which have been taxed and allowed at the said sum, and interest on the said sum at the rate of five per centum per annum from the ——— day of ———, 19—, (*the date of the certificate of taxation*), and that you have before the Justices of our High Court at Toronto so much of the said sum and interest as you shall have made from the said goods and chattels immediately after the execution hereof, and so much thereof as you shall have made from the said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be rendered to the said ———. And in what manner you shall have executed this our writ make appear to us immediately after the execution hereof. And have there then this writ.

Witness, &c.

Place of issue in the margin and indorsements as in Form No. 530.

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534. WRIT OF FIERI FACIAS.

To Make Costs Taxed to Defendant.

(Court and Style of Cause.)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

We command you that of the goods and chattels and lands and tenements of the above named plaintiff A.B. in your bailiwick, you

cause to be made the sum of $——— and also interest thereon at the rate of five per centum per annum from the ——— day of ———, A.D. 19—, which said sum of money and interest were, lately before us in our High Court of Justice, in a certain action, wherein the said A.B. is plaintiff and the said C.D. is defendant, by a judgment (*or* order) of our said Court bearing date the ——— day of ———, A.D. 19—, adjudged to be paid by the said A.B. to the said C.D. for his taxed costs of defence in said action, and that you have before us in our said Court at Toronto so much of that money and interest as you shall have made from the said goods and chattels immediately after execution hereof, and so much thereof as you shall have made from the said lands and tenements immediately after expiration of twelve months from the day of your receipt hereof, to be paid to the said C.D. in pursuance of the said judgment (*or* order).

And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof; and have you there then this writ.

Witness, etc.

Place of issue in margin and indorsements as in Form No. 530.

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535. WRIT OF FIERI FACIAS.

To Make Residue of Moneys.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

Whereas by our writ we lately commanded you that of the goods and chattels and lands and tenements of ——— in your bailiwick you should cause to made the sum of $——— together with interest thereon from the ——— day of ———, 19—; and also the further sum of $——— for the taxed costs of the said ——— together with interest thereon from the ——— day of ———, 19—: which said several sums of money and interest were lately in our High Court of Justice before the Justices of our said Court at Toronto by a judgment of our said Court bearing date the ——— day of ———, 19—, adjudged to be paid by the said ——— to the said ———, as appears of record, and that you should have that money before our Justices aforesaid at Toronto immediately after the execution thereof to be rendered to the said ———. And you returned to our Justices aforesaid that by virtue of the said writ to you directed you had caused to be made of the goods and chattels and lands and tenements of the said ——— in your bailiwick the sum of $——— parcel of the moneys aforesaid, which money you had ready, as by the said writ you were commanded, and that the said ——— had not any other or more

goods and chattels and lands and tenements in your bailiwick whereof you could cause to be made the residue of the moneys aforesaid: Therefore we command you that you cause to be made of the goods and chattels and lands and tenements of the said ——— in your bailiwick the sum of $——— residue of the moneys aforesaid, and have before our Justices aforesaid at Toronto so much of that money and interest as you shall have made from the said goods and chattels immediately after the execution hereof, and so much as you shall have made from the said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be rendered to the said ——— for the residue of moneys aforesaid. And in what manner you shall have executed this our writ make appear to our Justices aforesaid at Toronto immediately after the execution hereof, and have there then this writ.

Witness, etc.

Place of issue in the margin and indorsements as in Form No. 530.

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536. CERTIFICATE OF SHERIFF.

In Lieu of Return of Writ as to Goods. (Rule 883.)

(Court and Style of Cause.)

Writ of execution in this cause against the goods and chattels, lands and tenements of C.D., the above-named defendant (*or as the case may be*), to me directed, dated the ——— day of ———, 19—, issued from the Central Office of the High Court of Justice at Osgoode Hall, Toronto (*or as the case may be*).

I certify that I have this day indorsed on the above-mentioned writ my return thereto as to goods and chattels as follows:—

(*Here insert the return as indorsed.*)

Dated this ——— day of ———, 19—.

Sheriff of the County of ———.

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537. NOTICE OF RENEWAL OF WRIT

Of Fieri Facias. (Rule 872.)

(Court and Style of Cause.)

Take notice that the writ of Fieri Facias issued in this action directed to the Sheriff of ——— and bearing date the ——— day of ———, 19—, has been renewed for three years from the ——— day of ———, 19—.

Solicitor for the plaintiff.

To the Sheriff of ———.

538. PRÆCIPE FOR WRIT OF VENDITIONI EXPONAS.

(*Rules 836, 845, 866.*)

(*Court and Style of Cause.*)

Required a writ of *venditioni exponas* directed to the Sheriff of ——— to sell the goods and chattels (*or* lands and tenements) of C.D., taken under a writ of *fieri facias* in this action tested the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Solicitor for ———.

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539. WRIT OF VENDITIONI EXPONAS.

After Return by Sheriff of Goods or Lands on Hand Unsold for Want of Buyers. (*Rules 845 and 884.*)

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

Whereas by our writ we lately commanded you that of the goods and chattels and lands and tenements in your bailiwick of C.D. (*here recite the* fieri facias *as in Form No. 530*): And on the ——— day of ———, 19—, you certified (*or* returned) to our Justices of our High Court of Justice aforesaid that by virtue of the said writ to you directed you had taken goods and chattels (*or* lands and tenements) of the said C.D. to the value of the money and interest aforesaid, which said goods and chattels (*or* lands and tenements) remain in your hands unsold for want of buyers, and that therefore you could not have that money before our Justices aforesaid, as you were thereby commanded: Therefore, we being desirous that the said A.B. should be satisfied his money and interest aforesaid command you that you expose to sale and sell, or cause to be sold, the goods and chattels (*or* lands and tenements) of the said C.D., so by you taken as aforesaid, and every part thereof, for the best price that can be gotten for the same, and have the money arising from such sale before our Justices aforesaid, at Toronto, immediately after the execution hereof, to be paid to the said A.B. And have there then this writ.

Witness, &c.

Place of issue in the margin and indorsements as in Form No. 530.

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540. WRIT OF VENDITIONI EXPONAS FOR PART.

And Fieri Facias *for Residue.* (*Rules 845 and 884.*)

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

Whereas by our writ we lately commanded you that of the goods and chattels and lands and tenements of ——— in your bailiwick

you should cause to be made the sum of $———, and also the interest thereon from the ——— day of ———, 19—, which said sum of money and interest lately before the Justices of our High Court of Justice in a certain action, wherein ——— was plaintiff and ——— was defendant, by a judgment of our said Court bearing date the ——— day of ———, 19—, were adjudged to be paid by the said ——— to the said ———, and also $——— for taxed costs in the said judgment mentioned together with interest thereon from the said ——— day of ———, 19—, and that you should make to appear before our Justices aforesaid, at ———, immediately after the execution thereof, in what manner you had executed our said writ: and you at a day now past certified (*or* returned) to us in our High Court of Justice that by virtue of the said writ you had taken goods and chattels (*or* lands and tenements) of the said ——— to the value of $———, parcel of the said several sums of money and interest therein mentioned, which goods and chattels (*or* lands and tenements) remained in your hands for want of buyers, and that therefore you could not have that money before our Justices aforesaid, as you were thereby commanded, and that the said ——— had not any other or more goods and chattels (*or* lands and tenements) in your bailiwick whereof you could cause to be made the residue of the moneys and interest aforesaid, or any part thereof: Therefore we being desirous that the said ——— should be satisfied the said sums of money and interest, command you that you expose to sale, and sell, or cause to be sold, the said goods and chattels (*or* lands and tenements) of the said ——— so by you taken as aforesaid for the best price that can be got for the same, and have the said sum of $———, parcel of the moneys and interest aforesaid, arising from such sale, and any further or other moneys, before our Justices aforesaid, immediately after the execution hereof, to be rendered unto the said ———.

(*If the writ and not merely a certificate has been returned a* fi. fa. *residue may be added to the writ of* ven. ex. *as follows*:

And we also command you that of the goods and chattels and lands and tenements of the said ——— in your bailiwick you cause to be made the sum of $——— residue of the moneys and interest aforesaid; and have before our Justices aforesaid so much of such residue as you shall have made from said goods and chattels immediately after the execution hereof, and so much thereof as you shall have made from said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be rendered to the said ——— for the residue of the moneys aforesaid.)

And in what manner you shall have executed this our writ make appear to our Justices aforesaid at Toronto, immediately after the execution hereof, and have there then this writ.

Witness, etc.

Place of issue in the margin and indorsements as in Form No. 530.

541. PRÆCIPE FOR WRIT OF POSSESSION.

Of Lands. (*Rule 866.*)

(*Court and Style of Cause.*)

Required a writ of possession directed to the Sheriff of ——— to deliver possession to A.B. of ———.

Judgment dated the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Solicitor for the ———.

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542. WRIT OF POSSESSION.

(*Rule 846.*)

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

Whereas lately by a judgment in our High Court of Justice A.B. recovered (*or* E.F. was ordered to deliver to A.B. possession) of all and singular that certain parcel or tract of land described as follows: (*describe it*) with the appurtenances in your bailiwick: Therefore we command you that you enter the same, and without delay cause the said A.B. to have possession of the said land and premises with the appurtenances, and that you defend and keep him and his assigns in peaceable and quiet possession when and as often as any interruption may or shall, from time to time, be given or offered to him or them or any of them.

Witness, &c.

(*Where money or costs are also recoverable by the judgment, a writ of* fieri facias *may be combined with the writ of possession.*)

Place of issue in the margin and indorsements as in No. 530.

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543. PRÆCIPE FOR WRIT OF DELIVERY

Of Chattels. (*Rule 866.*)

(*Court and Style of Cause.*)

Required a writ of delivery directed to the Sheriff of ——— to make delivery to A.B. of ———.

Dated the ——— day of ———, 19—.

Solicitor for the ———.

544. WRIT OF DELIVERY OF CHATTELS.

Commanding Distress until the Chattels shall be Returned.

(*Rule 852.*)

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

We command you that without delay you cause the following chattels, that is to say (*here enumerate the chattels recovered by the judgment for the return of which execution has been ordered to issue*) to be returned to A.B. which the said A.B. lately in our High Court of Justice recovered against C.D. (*or* which the said C.D. was ordered to deliver to the said A.B.) by a judgment (*or* order) in an action in our said Court bearing date the ——— day of ——— A.D. 19—. And we further command you that if the said chattels cannot be found in your bailiwick you distrain the said C.D. by all his goods and chattels in your bailiwick to double the value of the chattels so ordered to be delivered, &c., so that neither the said C.D. nor any one for him do lay hands on the same until the said C.D. render to the said A.B. the said chattels; and in what manner you shall have executed this our writ make appear to the Justices of our Court at Toronto immediately after the execution hereof, and have you there then this writ.

Witness, &c.

Place of issue in margin and indorsements as in Form No. 530.

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545. WRIT OF DELIVERY OF CHATTELS.

Commanding the Sheriff to Levy on the Defendant's Goods the Assessed Value of the Chattels.

Proceed as in the preceding form to the words "And we further command you," *and then thus*:

And we further command you that if the said chattels cannot be found in your bailiwick then of the goods and chattels and lands and tenements of the said C.D. in your bailiwick you cause to be made the sum of $——— (*the assessed value of the chattels*) and interest thereon from the ——— day of ———, 19—, which by the said judgment (*or* order) of the said Court were to be paid by the said C.D. to the said A.B. for the value of the said goods and chattels in such case. *Where damages and costs are awarded add*: And we also command you that of the goods and chattels and lands and tenements of the said C.D. in your bailiwick you cause to be made the sum of $———, which by the said judgment (*or* order) were directed to be paid by the said C.D. to the said A.B. for damages and costs (*or as the case may be*) together with interest upon the said sum at the rate of five per centum per annum from

the ——— day of ———, 19—, and that you have before the Justices of our said Court at Toronto so much of the said sums and interest as you shall have made from the said goods and chattels immediately after the execution hereof, and so much thereof as you shall have made from the said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be paid to the said A.B., and in what manner you shall have executed this our writ make appear to the Justices of our said High Court of Justice at Toronto immediately after the execution hereof, and have you there then this writ.

Witness, &c.

Place of issue in the margin and indorsements as in Form No. 530.

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546. ORDER FOR WRIT OF CA. SA.

Under The Fraudulent Debtors' Arrest Act, 9 Edw. VII. (1909), Ch. 50.

It is ordered that the plaintiff be at liberty to issue out of this Court a writ and one or more concurrent writs of *capias ad satisfaciendum* upon the judgment recovered in this cause, directed to the sheriff of the County of ——— and to the sheriff or sheriffs of such other County or Counties as may be named in the said concurrent writ or writs.

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547. WRIT OF CAPIAS AD SATISFACIENDUM.

On a Judgment for Plaintiff, where Defendant has not been Arrested Previously.

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———:

Whereas (*insert if necessary any recitals which under the order may be proper*:)

We command you that you take C.D., if he shall be found in your bailiwick, and him safely keep so that you may have his body before our Justices of our High Court of Justice at Toronto, immediately after the execution hereof, to satisfy the sum of $——— (*the amount to be recovered by the judgment*) which lately in our High Court of Justice by a judgment bearing date the ——— day of ———, 19—, were adjudged (*or* ordered) to be recovered (*or* paid) by the said A.B. against (*or* by) the said C.D. for damages (*where costs also payable add* together with the further sum of $——— for the taxed costs of the said A.B. as mentioned in said judgment.) And have you then there this writ.

Witness, &c.

Insert in the margin:

This writ of *capias ad satisfaciendum* is issued from the office of &c., pursuant to special order of ———.

Dated the ——— day of ———, A.D. 19—.

(*Signature of Officer.*)

N.B.—This writ is to be in force for two months from the date hereof and no longer.

Indorsement: This writ was issued, &c., *as in Form No. 530.*

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548. WRIT OF CAPIAS AD SATISFACIENDUM.

On an Order for Payment of Money. (Rule 1051.)

(Court and Style of Cause.)

GEORGE THE FIFTH, etc.

(*Same as in preceding form to the words*: which lately, &c.) which lately in our High Court of Justice by an order of our said Court (*or* by an order of the Honourable ———, one of the Justices of our said High Court of Justice *or as may be*) dated the ——— day of ———, 19—, was ordered to be paid by the said C.D. to the said A.B. And have you then there this writ.

Witness, &c.

Place of issue in margin and N.B. as in preceding form.

Indorsement as in Form No. 530.

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549. WRIT OF CAPIAS AD SATISFACIENDUM.

On an Order for Payment of Money and Costs. (Rule 1051.)

(Court and Style of Cause.)

GEORGE THE FIFTH, etc., (*same as in preceding form down to the words*: was ordered) was ordered to be paid by the said C.D. to the said A.B., together with certain costs in the said order mentioned, which said costs have been taxed and allowed by our said Court at $——— (*the amount of the allocatur or allocaturs, if more than one,*) and further to satisfy the said A.B. the said last mentioned sum. And have you then there this writ.

Witness, &c.

Place of issue in margin, N.B. and indorsement as in Form No. 547.

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550. WRIT OF CAPIAS AD SATISFACIENDUM.

On a Judgment for Plaintiff (where Defendant has been Arrested Previously and has Given Security) to Fix the Liability of Sureties. (Rule 1052.)

(Court and Style of Cause.)

GEORGE THE FIFTH, etc. to the Sheriff of, &c.:

We command you that you take C.D., if he shall be found in your bailiwick, and him safely keep so that you may have his body

before our Justices of our High Court of Justice at Toronto within ——— days after the day of your receipt hereof to satisfy, &c., (*following Form No. 547*)

Insert in the margin:

This writ of *capias ad satisfaciendum* is issued from the ——— office of, &c.

Indorsement as in Form No. 547.

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551. BAIL BOND TO SHERIFF ON CA. SA.

Know all men by these presents that we, C.D. of the Township of ——— in the County of ———, farmer, E.F., of the Town of —— in the County of ———, banker, and G.H., of the Town of ——— in the County of ———, merchant, are jointly and severally held and firmly bound to X.Y., Esq., Sheriff of the County of ———, in the penal sum of (*double the amount for which the debtor is confined*) of lawful money of Canada, to be paid to the said Sheriff, his certain attorney, executors, administrators or assigns, for which payment to be well and faithfully made, we bind ourselves and each of us binds himself, our and each of our heirs, executors and administrators, respectively, firmly by these presents.

Sealed with our seals and dated this ——— day of ———, 19—.

Whereas the said C.D. was on the ——— day of ———, 19—, arrested under and by virtue of a writ of *capias ad satisfaciendum* issued out of the High Court of Justice and directed to the Sheriff of the said County of ———, returnable immediately after the execution thereof, to satisfy ———, the plaintiff, of a judgment in the said Court in his favour against the said C.D., defendant, the said writ being issued to recover the sum of ——— dollars, being for debt and costs, and endorsed to the Sheriff to levy said sum with six dollars for writ and Sheriff's fees poundage and incidental expenses, and being now in the custody of the said Sheriff under the said writ, desires to give bail and obtain his release from close custody:

Now the condition of the above bond is such that if the above bounden C.D. shall observe and obey all notices or orders of Court touching or concerning him, the said C.D., or his appearing to be examined *viva voce* or his returning and being remanded into close custody; and if they, the said E.F. and G.H., upon reasonable notice to them or any of them requiring them so to do, will produce the said C.D. to the said Sheriff; also if the said C.D. shall within thirty days from the execution hereof cause the said bond or any other one that may be substituted therefor, according to the provisions of the statute in that behalf, to be allowed by the Judge of the County Court of the County of ———, and such allowance to

be endorsed thereon by the said Judge, then the above obligation to be void, otherwise to be and remain in full force and virtue.
Signed, sealed and delivered
in presence of

C.D. [SEAL.]
E.F. [SEAL.]
G.H. [SEAL.]

Note.—The sureties shall be not less than two nor more than four. 9 Edw. VII. (1909), Ch. 50, Ss. 35, 36.

Affidavits of execution and justification should be annexed to the bond.

As to affidavit of justification see 9 Edw. VII. (1909), Ch. 50, S. 37.

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552. NOTICE OF MOTION TO COMMIT.

For Contempt in Master's Office.

On behalf of the plaintiff for an order to commit the defendant C.D. to gaol for his contempt in not bringing into the office of the Master of the Supreme Court of Judicature at ——— the accounts and statements by the said Master directed to be brought into and filed in his office by the said defendant C.D. on the ——— day of ———, 19—.

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553. ORDER FOR ATTACHMENT.

For Non-Compliance With Order of Master.

1. It is ordered that the defendant do within ——— days after the service of this order upon him, bring into and file in the Master's office of this Court at ——— an (*here state the document*) pursuant to the direction of the said ——— in that behalf and in default of his so doing it is ordered that the sheriff of the County or United Counties wherein the said ——— may be found do take him into his custody and commit him to the gaol of his County or Counties to answer his said contempt.

2. And it is ordered that a writ or writs of attachment do issue accordingly.

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554. NOTICE OF MOTION

For Leave to Issue a Writ of Attachment.

That he may be at liberty to issue a writ or writs of attachment against the defendant A.B. (*or as the case may be*), for his contempt in not (or in) (*here state the act required to be done or abstained from*), pursuant to the judgment (*or* order) herein, dated the ——— day of ———, 19—; and that the defendant A.B. (*or as the case may be*) may be ordered to pay to the applicant his costs of this application and also his costs of and incidental to the issuing and execution of the said writ or writs of attachment.

555. NOTICE OF MOTION FOR COMMITTAL.

Or in Alternative for Leave to Issue Writ of Attachment.

That the defendant A.B. (*or otherwise, as the case may be*) may be ordered to stand committed to ——— prison for his contempt in not (*or* in) (*here state the acts required to be done, or abstained from,*) or (in the alternative) that the plaintiff (*or otherwise, as the case may be*) may be at liberty to issue a writ or writs of attachment against the defendant A.B. (*or otherwise, as the case may be*) for his contempt aforesaid; and that the said defendant (*or as the case may be*) may be ordered to pay to the applicant his costs of this application, and also his costs of and incidental to the issuing and execution of any such writ or writs of attachment as aforesaid.

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556. ORDER OF COMMITTAL FOR CONTEMPT

In not Obeying Judgment or Order of Court.

Upon motion made unto this Court on the ——— day of ———, 19—, by counsel for the plaintiff, in presence of counsel for the defendant (*or as the case may be*), upon reading the judgment herein dated the ——— of ———, 19—, the order made herein on the ——— day of ———, 19—, with the affidavits of service thereof, the affidavit of ——— filed upon the application for the said last-mentioned order, and the affidavit of ——— filed on this motion, and upon hearing what was alleged by counsel for the defendant, and judgment having been reserved until this day, and it appearing by the said affidavits that the said defendant C.D. has neglected to (*set out the acts directed to be done by the judgment or order*) within the time limited by the judgment (*or* order) of the Honourable Mr. Justice ——— dated the ——— day of ———, 19—:

1. This Court being of opinion that the said defendant C.D. has by such conduct been guilty of a contempt of this Court doth order that the sheriff of any County or union of Counties in which the said defendant C.D. may be found do take him into his custody and commit him to the common gaol of the said County or Union of Counties for his said contempt, there to be detained and imprisoned until he shall have purged his said contempt, and that for this purpose a writ or writs of attachment do issue accordingly.

2. And this Court doth further order that the costs of this application be ———.

Note.—A judgment requiring a person to do an act other than the payment of money, or to abstain from doing anything, may be enforced by writ of attachment, or by committal: Rule 853. A motion for attachment or committal when made for non-compliance with or disobedience of a judgment or order of the Court should be

made in Court: when made for non-compliance with rules of practice or orders of course or orders in Chambers the motion may be made to a Judge in Chambers.

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557. AFFIDAVIT TO SUPPORT APPLICATION.

For Order of Committal or Leave to Issue a Writ of Attachment or Sequestration.

(A.—*If judgment or order for payment of money to any person or into Court*).

(1) By the judgment (*or* by an order made) herein dated the ———. day of ———, 19—, it was ordered that the above named defendant A.B. should (*state the mandatory part ordering payment of the money.*)

(2) The said defendant (*or as the case may be*) was duly served with such judgment (*or* order) as by the affidavit of service filed herein in that behalf appears.

(3) The said defendant (*or as the case may be*) has not paid to me, or to any one on my behalf, the said sum of $———, mentioned in the said judgment (*or* order), or any part thereof, but the whole thereof is still due and owing to me, and remains wholly unpaid and unsatisfied; or has only paid to me or on my behalf the sum of $———, part of the said sum of $——— mentioned in the said judgment (*or* order) leaving $———, the balance thereof due to me and wholly unsatisfied; or has not paid into Court pursuant to the said judgment (*or* order) the sum of $——— therein mentioned, or any part thereof as appears by the certificate in that behalf of the accountant of the Supreme Court of Judicature, now produced and shown to me and marked Exhibit "A."

4. I have, except where it hereinbefore appears to the contrary, deposed to the circumstances aforesaid, speaking from personal knowledge.

(B.—*If judgment or order for doing or abstaining from any act*)—

(1) By the judgment (*or* by an order made) herein, dated the ——— day of ———, 19—, it was ordered that the above named defendant A.B. (*or* defendant corporation, *or as the case may be*) should (*here state the mandatory part ordering the doing of or abstaining from doing the act in question*).

(2) The said defendant (*same as paragraph 2, ante*).

(3) That the said defendant (*or* defendant corporation &c.), has contrary to or in breach of the said judgment (*or* order) (*here state the circumstances strictly proving the neglect to do the act ordered, or the doing of the act ordered not to be done*).

(4) I have, except, &c. (*conclude as in paragraph 4, ante*).

Note.—Service of order, the breach of which is complained of, must be proved by affidavit.

558. PRÆCIPE FOR WRIT OF ATTACHMENT.

(*Rule 866.*)

(*Court and Style of Cause.*)

Required in pursuance of order dated the ——— day of ———, 19—, an attachment directed to the Sheriff of ——— against C.D. for not delivering to A.B.

Dated the ——— day of ———, 19—.

Solicitor for ———.

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559. WRIT OF ATTACHMENT OF THE PERSON.

For Contempt. (*Rule 853.*)

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

We command you to attach C.D., notwithstanding any right of place he is in, so as to have him before our Justices in our High Court of Justice at Toronto, immediately after the receipt hereof, then and there to answer to us, as well touching a contempt which he it is alleged hath committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in this behalf, and hereof fail not, by reason of any liberty, and bring this writ with you.

Witness, &c.

Place of issue in margin and indorsement as in No. 530.

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560. NOTICE OF MOTION FOR LEAVE TO ISSUE WRIT OF SEQUESTRATION.

Against a Corporation.

That a writ of sequestration may issue directed to certain commissioners to be therein named, to sequestrate all the property and effects (real and personal) of the above named defendant corporation, for the contempt of such corporation in wilfully disobeying the judgment (*or* order) made in this action on the ——— day of ———, 19—, in not (*or* in) (*here state the act required to be done or abstained from*), and until the said corporation shall clear its said contempt, and this Court make other order to the contrary; and that the said corporation may be ordered to pay to the applicant his costs of and incidental to this application, and also his costs of and incidental to the issue and execution of such sequestration as aforesaid or that such further or other order may be made, &c.

561. NOTICE OF MOTION FOR DISCHARGE FROM CUSTODY.

Upon Purging Contempt.

On behalf of (the defendant) A.B. (*or as the case may be*) now a prisoner in ——— prison, by virtue of an order dated the ——— day of ———, 19—, for the contempt therein mentioned of this honourable Court, that having purged his said contempt he may be discharged from the custody of the governor of the said prison, as to such contempt with all usual and necessary directions, or that such further or other order may be made, &c.

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562. NOTICE OF MOTION TO DISCHARGE FROM CUSTODY.

On the Ground of Irregularity.

On behalf of (the defendant) C.D. a prisoner in the ——— prison (*or as the case may be*), under a writ of attachment issued pursuant to an order dated the ——— day of ———, 19—, (*or* under an order of committal made herein, and dated, &c.), that the said order may be discharged (and the writ of attachment issued pursuant thereto set aside) on the ground that (*here state clearly the alleged irregularity*), and that the applicant may be discharged out of custody as to his said contempt, and that the plaintiff (*or as the case may be*) may be ordered to pay the applicant his costs of and relating to the said order and the said attachment, and consequent thereon, and of this application forthwith after taxation thereof.

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563. NOTICE OF MOTION FOR DISCHARGE FROM CUSTODY.

On Ground of Want of Means and Sufficient Duration of Imprisonment, or otherwise.

Upon behalf of (the defendant) A.B. (*or as the case may be*) now a prisoner in ——— prison, by virtue of an order of this honourable Court, dated the ——— day of ———, 19—, whereby he was committed to prison (*or* whereby a writ of attachment was ordered to issue against him) for non-payment of the sum of $——— due from him (*state in what capacity the sum was due. e.g., as trustees, &c.*), that he may forthwith be discharged from custody, upon the ground that he has been a prisoner under and by virtue of the said order (*or* the said writ) in the ——— prison at ——— since the ——— of ———, 19—, and also on the ground that he is wholly unable to pay the said sum of $——— or any part thereof, or upon such other ground or grounds as to the Court shall seem fit, or that such further or other order may be made, &c.

564. AFFIDAVIT IN SUPPORT OF MOTION FOR DISCHARGE.

(1) I have since the ——— day of ———, 19—, been and am now a prisoner in the ——— prison, to which I was committed under an order made herein on the ——— day of ———, 19—, (*or* to which I was taken after being arrested under a writ of attachment issued under an order made herein on the ——— day of ———, 19—).

(A.—*If irregularity be ground of application*)—

(2) That such order by virtue of which I was committed and imprisoned as aforesaid (*or* by virtue of which such writ of attachment was issued as aforesaid) was obtained *ex parte* and irregularly. Such irregularity consisted in the particulars following, namely, (*here set forth clearly and with particularity the grounds of irregularity alleged*).

(B.—*If apology and sufficient duration of imprisonment be ground of application*)—

(1) That in not obeying the order of the Court, for disobedience to which I was committed (*or* arrested) and imprisoned as aforesaid (*or* in printing and publishing, or causing to be printed or published, the article (or news or paragraph) complained of (*or* other act complained of, and for which I was so committed, &c.), I had not the least intention of committing a contempt of Court (*if so, and offence being non-payment of money*—"but my non-compliance with such order is due solely to my want of means") and I unreservedly express my regret for not obeying the said order (*or* for my offence aforesaid), and I do hereby apologise humbly to the Court for the same.

(2) My confinement in prison has been and is a serious loss and injury to me in my business as a ———, and otherwise. And (*if it is so*) (both myself and my wife and family are suffering thereby and my health is being much injured by the continuance of such imprisonment). N.B.—*If health suffers have evidence, if possible, of a physician on the subject.*)

(3) I am quite unable to pay the said sum of $——— or any part thereof. My trade (or business) of a ——— has been ruined by my imprisonment. I have a wife and (*state number*) children altogether dependent upon me, and they are now in the greatest poverty and distress. I have no property of any kind (*generally state such of the circumstances of the particular case as may be calculated to induce the Court to direct the discharge of the prisoner*).

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565. ORDER CONDONING CONTEMPT.

Defendant Paying Costs.

This Court, being of opinion that the defendants have been guilty of a contempt of this Court by a breach of (the said injunc-

tion), doth order that the defendants do pay the plaintiffs their costs of this motion, forthwith after taxation, (but at the suggestion of the plaintiff's counsel this Court doth not make any further order thereon.)

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566. ORDER FOR WRIT OF SEQUESTRATION.

It is ordered that a writ of sequestration to issue in this cause to sequester the goods and chattels, lands and tenements of the (defendant) A.B. until he shall pay the amount due and payable by the said A.B. (to the plaintiff in this cause) or into court under the said order (*or*, until he shall (*stating what he is required to do*) and this Court make other order to the contrary).

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567. PRÆCIPE FOR WRIT OF SEQUESTRATION.

(*Rule 866.*)

(*Court and Style of Cause.*)

Required a writ of sequestration against C.D. for not ——— at the suit of A.B., directed to the Sheriff of ———.

Order dated the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

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568. WRIT OF SEQUESTRATION.

(*Rule 859.*)

(*Court and Style of Cause.*)

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

Whereas lately in our High Court of Justice in a certain action there depending wherein A.B. is plaintiff and C.D. is (*or* and others are) defendants (*or* in a certain matter there depending intituled "In the matter of E.F." *as the case may be*,) by a judgment (*or* order *as the case may be*) of our said Court made in the said action (*or* matter), and bearing date the ——— day of ———, 19—, it was ordered that the said C.D. should pay into Court to the credit of the said action the sum of ——— (*or as the case may be*): Know ye, therefore, that we have given and by these presents do give to you full power and authority to enter upon all the lands, tenements and real estate whatsoever of the said C.D., and to collect, receive and sequester in your hands, not only all the rents and profits of his said lands, tenements and real estate, but also all his goods, chattels and personal estates whatsoever; and therefore we command you that you do at certain proper and convenient days and hours go to and enter upon all the lands, tenements and real estates of the said C.D., and that you do collect, take and get into your hands not only the rents and profits of his said real estate, but also

all his goods, chattels and personal estate, and detain and keep the same under sequestration in your hands until the said C.D. shall pay into Court to the credit of the said action the sum of $——— (*or as the case may be*), and clear his contempt, and our said Court make other order to the contrary.

Witness, &c.

Place of issue in margin and indorsements as in Form No. 530.

CHAPTER XXI.

EXAMINATION OF JUDGMENT DEBTOR.

569. APPOINTMENT TO EXAMINE JUDGMENT DEBTOR.

(*Rule 900.*)

(*Court and Style of Cause.*)

Upon the application of the plaintiff I do appoint ——— day, the ——— day of ———, A.D. 19—, at my chambers in the City of ——— in the County of ———, at the hour of ——— o'clock in the ——— noon for the examination *viva voce* upon oath before me of C.D. the above-named defendant touching his estate and effects, and as to the property and means he had when the debt or liability, which was the subject of this action and for which judgment has been obtained against him, was incurred, and as to the property and means he still has of discharging the said judgment and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him.

Dated at ——— this ——— day of ———, 19—.

Special Examiner.

570. APPOINTMENT TO EXAMINE JUDGMENT DEBTOR.

County Court.

(*Court and Style of Cause.*)

In pursuance of the Judicature Act and the general orders and rules of Court thereunder in that behalf.

I hereby appoint ——— the ——— day of ———, A.D. 19—, at the hour of ——— o'clock in the ——— noon at ——— for the examination of ——— the above named judgment debtor touching ——— estate and effects and as to the property and means ——— had when the debt or liability which was the subject of the action in which judgment has been obtained against was incurred and as to the property and means ——— still has of discharging the said judgment and as to the disposal ——— has made of any prop-

erty since contracting such debt or incurring such liability and as to any and what debts are owing to ———.

Dated ——— day of ———, A.D. 19—.

Special Examiner.

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571. NOTICE OF MOTION TO COMMIT JUDGMENT DEBTOR

For Refusal to Answer and Answering Unsatisfactorily. (*Rule 907.*)

Take notice that a motion will be made on behalf of the above-named plaintiff before the Judge presiding in Chambers at Osgoode Hall in the City of Toronto, on ——— day the ——— day of ———, 19—, at ——— o'clock in the ——— noon, or so soon thereafter as the motion can be heard, for an order that the above-named defendant C.D. be committed to the Common Gaol of the County of ——— (*county in which defendant resides*) for a term of twelve months, or for such lesser term as the said Judge may direct; or for an order for a writ of *capias ad satisfaciendum* to be issued against the said defendant; upon the ground that he has refused to disclose his property, or his transactions respecting the same, and does not make satisfactory answers respecting the same, and that he has concealed or made away with his property in order to defeat or defraud the plaintiff and other creditors of said defendant, as appears by the examination of the said defendant as a judgment debtor taken before ———, Esquire, Special Examiner, at the ——— of ———, under the Rules of Court in that behalf; and upon such motion, &c.

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572. ORDER THAT DEFENDANT ATTEND FOR RE-EXAMINATION

As a Judgment Debtor—Application to Commit.

Upon the application of the above named plaintiff for an order to commit the defendant C.D. to the common goal of the County of ——— for unsatisfactory answers upon his examination as a judgment debtor, upon reading the examination, &c., and upon hearing what was alleged by counsel for the plaintiff and the defendant:

1. It is ordered that the said defendant C.D. do at his own expense and without payment of further conduct money attend before ——— at such time and place as he shall in writing appoint, and submit to be further examined upon oath touching his estate and effects and as to the property and means he had when the debt or liability (which was the subject of this action and for which judgment has been obtained against him) was incurred, and as to the property and means he still has of discharging the said judgment, and as to the disposal he may have made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him.

2. And it is further ordered that the defendant C.D. do pay to the plaintiff A.B. the costs of the said examination already had and of this motion forthwith after taxation thereof.

3. And it is further ordered that the further consideration of this application is hereby reserved until after such further examination shall have been had, liberty being given to the plaintiff then to resume this application to commit.

CHAPTER XXII.

GARNISHEE PROCEEDINGS.

573. AFFIDAVIT FOR GARNISHEE ORDER.

(*Rule 911.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Judgment Creditor,
and
C.D., Judgment Debtor.

I, A.B., of, &c., the above-named judgment creditor (*or* solicitor for the above-named judgment creditor, *or as the case may be*) make oath and say as follows:—

1. By a judgment of the Court given in this action, and dated the ——— day of ———, 19—, it was adjudged that I (*or* the above-named judgment creditor) should recover against the above-named judgment debtor C.D., the sum of $———, and costs to be taxed, and the said costs were by a taxing officer's certificate dated the ——— day of ———, 19—, allowed at $———.

2. The said ——— still remains unsatisfied to the extent of ——— and interest amounting to $———.

3. (*Name, address and description of garnishee*) is indebted to the judgment debtor C.D. in the sum of $——— or thereabouts.

4. The said (*insert name of garnishee*) is within Ontario.

(*Where the garnishee is not within Ontario the affidavit must show circumstances which would justify the making of an order for service of a writ of summons out of Ontario.*)

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574. GARNISHEE ORDER ATTACHING DEBTS.

(*Rule 911.*)

Between A.B., Judgment Creditor,
and
C.D., Judgment Debtor,
E.F., Garnishee.

1. It is ordered that all debts owing or accruing due from the above named garnishee to the above named judgment debtor be

attached to answer a judgment recovered against the said judgment debtor by the above named judgment creditor in the High Court of Justice on the ——— day of ———, 19—, for the sum of $———, on which judgment the said sum of $——— remains due and unpaid.

2. And it is further ordered that the said garnishee attend before the ——— in Chambers (*or as the case may be*) on ——— day the ——— day of ———, 19—, at ——— o'clock in the ——— noon to show cause why the said garnishee should not pay to the said judgment creditor the debt due from him to the said judgment debtor, or so much thereof as may be sufficient to satisfy the judgment.

3. And it is further ordered that the costs of this application be ———.

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575. ORDER IN GARNISHEE PROCEEDINGS

Calling on Third Person to Appear and State Claim. (*Rule 920.*)

Between A.B., Judgment Creditor,
C.D., Judgment Debtor,
E.F., Garnishee,
and
G.H., Claimant.

Upon the application of ———, upon reading the affidavit of ——— filed herein, and upon hearing the solicitors for the judgment creditor and the garnishee:

1. It is ordered that the further hearing of the parties to the garnishee order herein dated the ——— day of ———, 19—, whereby it was ordered that all debts owing or accruing from the above named garnishee to the above named judgment debtor should be attached to answer a judgment recovered by the said judgment creditor against the said judgment debtor, do stand adjourned until the ——— day of ———, 19—.

2. And it is further ordered that G.H., the party alleged to be entitled to the said debt (*or* who is alleged to have a lien or charge upon the said debt), attend before the Master in Chambers on the said ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, to state the nature and particulars of his claim to such debt, and maintain or relinquish the same, and abide by such order as may be then made herein.

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576. GARNISHEE ORDER ABSOLUTE.

Upon the application of ———, and upon reading the affidavit of ——— filed, and the order herein dated the ——— day of ——— 19—, whereby it was ordered that all debts owing or accruing due

from the above named garnishee to the above named judgment debtor should be attached to answer a judgment recovered against the said judgment debtor by the above named judgment creditor in the High Court of Justice on the ——— day of ———, 19—, for the sum of $———, on which said judgment the sum of $——— remained due and unpaid, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the said garnishee do forthwith pay the said judgment creditor the debt due from him to the said judgment debtor (or so much thereof as may be sufficient to satisfy the judgment debt), (*or* that the said attaching order be and the same is hereby rescinded, *or as may be ordered*).

2. And it is further ordered that the costs of this application be ———.

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577. NOTICE OF GARNISHEE ORDER

In Lieu of Order for Service Out of Ontario. (*Rule 911.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Judgment Creditor,
and
C.D., Judgment Debtor,
E.F., Garnishee.

To E.F. of ———.

Take notice that an order has been obtained attaching all debts owing or accruing due from you to the above named judgment debtor to answer a judgment recovered against the said judgment debtor by the above named judgment creditor in the High Court of Justice on the ——— day of ———, 19—, for the sum of $——— on which judgment the sum of $——— remains due and unpaid.

And take further notice that an order has also been obtained that you do attend before the ——— in Chambers (*or as the case may be*) at ——— on the ——— day of ———, 19—, at ——— o'clock in the forenoon to show cause why you should not pay to the said judgment creditor the debt due to the said judgment debtor from you, or so much thereof as may be sufficient to satisfy the said judgment and you are required to attend accordingly, and if you do not then attend an order may be made in your absence.

Dated ——— the ——— day of ———, 19—.

578. WRIT OF FIERI FACIAS.

Against a Garnishee. (Rules 914 et seq.)

Between A.B., Judgment Creditor,
C.D., Judgment Debtor,
and
E.F., Garnishee.

GEORGE THE FIFTH, etc.

To the Sheriff of ———, Greeting:

We command you that of the goods and chattels and lands and tenements of E.F. in your bailiwick you cause to be made the sum of $——— and also interest thereon from the ——— day of ———, 19—, which said money and interest were lately attached in the hands of the said E.F. by an order of the ——— bearing date the ———day of ———, 19—, to satisfy a certain judgment (*or* order) which the said A.B. lately in our High Court of Justice recovered (*or obtained*) against the said C.D., as appears of record, and that you have before the Justices of the said Court at Toronto so much of that money and interest as you shall have made from the said goods and chattels immediately after the execution hereof, and so much as you shall have made from the said lands and tenements immediately after the expiration of twelve months from the day of your receipt hereof, to be paid to the said A.B. in pursuance of the said judgment (*or* order). And in what manner you shall have executed this our writ make appear to our said Justices at Toronto immediately after the execution hereof. And have there then this writ.

Witness, &c.

Place of issue in margin and indorsement as No. 530.

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579. ORDER DIRECTING ISSUE

Between Judgment Creditor and Garnishee.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Judgment Creditor,
C.D., Judgment Debtor,
and
E.F., Garnishee.
(*Formal Parts.*)

1. It is ordered that the above named judgment creditor A.B. and the above named garnishee E.F. do proceed to the trial of an issue wherein the judgment creditor shall be plaintiff and the garnishee defendant, and the question to be tried therein shall be whether the garnishee was at the time of the service on him of the garnishee order herein on the ——— day of ———, 19—, indebted to the above named judgment debtor.

2. And it is further ordered that the said issue be prepared and delivered by the plaintiff therein within ——— days from this date and be returned by the defendant therein within ——— days after receipt thereof, and that the said issue be tried at ———.

3. And it is further ordered that the question of costs and all other questions be reserved until after the trial of the said issue.

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580. GARNISHEE ISSUE.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,

and

E.F., Defendant.

The plaintiff A.B. affirms and the defendant E.F. denies that the defendant E.F. was indebted to C.D. of (*address and description of the judgment debtor*), in the sum of $———, or some other sum, at the time of the service on the defendant E.F. of the garnishee order dated the ——— day of ———, 19—.

And it has been ordered by the Master-in-Chambers that the said issue shall be tried by a jury at ———.

Therefore let a jury come.

Delivered this ——— day of ———, 19—, pursuant to the order of ——— dated the ——— day of ———, 19—, by G.H. of the ——— of ——— in the County of ———, solicitor for the above-named plaintiff.

CHAPTER XXIII.

REFERENCES TO MASTERS AND REFEREES.

(*Rules 564-766.*)

Judicature Act as Amended by 9 Edw. VII. (1909), Ch. 27, Sec. 3.

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581. ORDER OF REFERENCE FOR ENQUIRY AND REPORT.

Official or Special Referee.

1. It is ordered that the following questions arising in this action, namely: ———, be referred for inquiry and report to ———.

2. And it is further ordered that the costs of this application be ———.

582. ORDER OF REFERENCE AND FOR PAYMENT.

1. It is ordered that the (*state whether all or some and, if so, which of the questions are to be tried*) in this action be tried by ———.

2. (*To be used in a case where it is not necessary to reserve any questions as to costs or otherwise.*) And it is further ordered that the defendant (*or* the party by whom any amount shall be found by the Referee to be due) do pay to the plaintiff (*or* the party to whom such amount shall be found due) the amount which the Referee shall find to be payable, forthwith after the confirmation of the Referee's report (*or as the case may require*).

3. And it is further ordered that the costs of this application (*or* of this action) be (*as may be ordered*).

Note.—Formerly under the Arbitration Act, Secs. 28 and 29, now under the Judicature Act as amended by 9 Edw. VII. (1909), Ch. 27, Sec. 3.

583. APPOINTMENT IN MASTER'S OFFICE.

(*Short Style of Cause.*)

By virtue of the jugdment (*or* order of reference) herein, I appoint to consider the matters thereby to me referred — day the ——— day of ——— instant at ——— o'clock in the — noon at my Chambers in ——— in the City of ——— (*or as the case may be*); at which time and place all parties concerned are to attend.

Dated this ——— day of ———, 19—.

Master-in-Ordinary.
(*Or as the case may be.*)

To hear and determine, and to take an account of the amounts due to the plaintiff and A.B., C.D. and E.F., made parties defendants in the Master's Office.

(*Or* To consider and adjudicate on the claims of the following creditors, in default of whose appearance their claims will be allowed only as admitted by ———: *or* To tax costs and settle Report, *or as the case may be*).

584. INDORSEMENT ON OFFICE COPY OF JUDGMENT.

Or Order Served under Rules 659-660.

To A.B. (*the person upon whom service has been directed.*)

If you wish to apply to discharge the within order or to add to, vary, or set aside the judgment in this cause, you must do so within fourteen days from the service hereof. (*When the order fixes a time for the further proceedings, add:*) And if you fail to move to discharge the said order or to add to, vary, or set aside the judgment, and fail to attend at the time and place appointed

by said order, either in person or by your solicitor, such order will be made and proceedings taken, in your absence, as may seem just and expedient; and without any further notice you will be bound by the judgment and the further proceedings in the cause in the same manner as if you had been originally made a party.

Plaintiff's solicitor.

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585. INDORSEMENT ON OFFICE COPY OF JUDGMENT.

Or Order to be Served under Rules 203-219 on Persons Interested in Proceedings but not made Parties.

To ——— (*the person upon whom service is to be made.*)

Take notice, 1st, that from the time of service of this notice you (*naming the party, or* (*where the notice is directed to be served on some person for an infant or person of unsound mind*) X.Y. (*naming the infant or person of unsound mind*) an infant *or* a person of unsound mind) will be bound by the proceedings in this cause in the same manner as if you (*or* the said infant *or* person of unsound mind) had been originally made a party, unless you (*or* the said infant *or* person of unsound mind) within fourteen days after the service hereof apply to the Court to add to, vary or set aside the within judgment (*or* order): and 2nd, that you (*or* the said infant *or* person of unsound mind) may upon service of notice upon the plaintiff attend the proceedings under the within judgment (*or* order.)

Plaintiff's solicitor.

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586. AFFIDAVIT OF SERVICE OF JUDGMENT OR ORDER.

1. That I did on the ——— day of ———, 19—, personally serve, the defendant A.B., (*or* C.D., the person named in the order dated the ——— day of ———, 19—,) with the judgment (*or* order) made in this cause (*or* matter), dated the ——— day of ———, 19—, now shewn to me marked "A", by delivering a true copy thereof to, and leaving the same with the said defendant A.B. (*or as may be*), at (*state where*), in the County of ———; and I at the same time shewed to him the said original judgment (*or* order) (*or*, an office copy of the said judgment (*or as may be*).

2. The copy served as aforesaid of the said judgment (*or* order) had indorsed thereon, at the time of the aforesaid service thereof, a notice in the words following, that is to say: (*set out a copy of the notice*).

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587. DIRECTION FOR PRODUCTION OF DOCUMENTS.

(*Full Style of Cause.*)

At the request of the plaintiff (*or* defendant *or other party as the case may be*) I direct that the defendant A.B. (*or* the plaintiff

C.D., *or other party as the case may be*), do, on or before ——— o'clock of the ——— day of ——— next, produce and leave in my office, under oath, all deeds, books, papers, writings and documents (*if any particular deed, book or writing be desired, mention it specifically*) in his (*or* their custody or power in any way relating to the matters in question in this cause.

Master *or* Referee.

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588. REPORT OF MASTER OR REFEREE.

(*Court and Style of Cause.*)

Pursuant to the judgment (*or* order) herein dated the ——— day of ———, 19—, having caused an office copy thereof to be served upon (*state the names of persons served and also the names of those service upon whom has been dispensed with and the reasons for dispensing with service*), I proceeded to dispose of the matters referred to me, and thereupon was attended by the solicitors for all parties interested (*or as the case may be.*)

(*If a guardian ad litem has been appointed for any of the parties this should be so stated, and the reason why such appointment was made.*)

And I find as follows:

1. &c.

2. &c.

All which having been proved to my satisfaction by proper and sufficient evidence I humbly certify to this Honourable Court.

Dated the ——— day of ———, 19—.

Master *or* Referee.

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589. AFFIDAVIT AS TO NON-PAYMENT OF MONEY

Found Due by Report.

1. That I have not, nor to the best of my knowledge, information and belief, has any person or persons on my account or behalf, received the sum of $———, found due and directed to be paid to me on the ——— day of ———, 19—, by the Master's report made in this cause bearing date the ——— day of ———, 19—, or any part thereof, and I say that the said sum of $——— is still wholly due and unsatisfied.

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590. ORDER CONFIRMING REPORT.

Upon the application of ———, upon reading the report of the Master of the Supreme Court of Judicature at ——— dated the ——— day of ———, 19—, the notice of this motion and affidavit of service thereof, and upon hearing the solicitors for the plaintiff and the defendant:

1. It is ordered that the said report be and the same is hereby confirmed forthwith after the filing thereof.

591. ORDER FOR DISTRIBUTION OF MONEYS IN COURT.

In Pursuance of Master's Report.

Upon the application of ———, upon hearing the solicitors for the plaintiff and the defendant, and upon reading the judgment, the reports herein dated respectively the ——— day of ——— 19—, and the ——— day of ———, 19—, and the certificate of the Accountant of the Supreme Court of Judicature for Ontario:

1. It is ordered that the moneys in Court to the credit of this action be forthwith paid out and distributed as found by the said Master's final report.

592. NOTICE OF MOTION TO CONFIRM REPORT

And for Judgment Thereon.

For an order confirming the report of the Local Master at ——— made herein and dated the ——— day of ———, 19—, and for judgment upon the said report for the amount found due to the plaintiffs thereunder, and awarding to the plaintiffs the costs of action and of the reference reserved in the judgment of the Honorable the ——— in this action dated the ——— day of ———, 19—, and for such other order as may be deemed just.

593. ORDER ADOPTING MASTER'S REPORT,

And for Payment Out.

Upon the application of ——— upon reading the report of the local Master of this Court at ——— dated the ——— day of ———, 19—, and filed the ——— day of ———, 19—, and upon reading the consent in writing of ———, and upon hearing what was alleged.

1. It is ordered that the said report be, and the same is hereby confirmed and adopted, and that the moneys in Court to the credit of this action be forthwith paid out to the parties entitled thereto as found by the said Master's report.

594. ORDER EXTENDING TIME FOR REPORT.

Upon the application of the plaintiff, upon hearing read the certificate of ———, Esquire, Official Referee, and upon hearing the solicitor for the applicant:

1. It is ordered that the time within which the said ——— do make his report herein be and the same is hereby extended until one month from the date hereof.

2. And it is further ordered that the costs of this application be costs in the cause.

CHAPTER XXIV.

ADMINISTRATION.

Rules 703-715, 944-955.

595. NOTICE OF MOTION FOR ADMINISTRATION JUDGMENT

Or for an Order respecting the Guardianship of an Infant.
(*Rule 945.*)

Take notice that a motion will be made before the presiding Judge in Chambers at Osgoode Hall, Toronto, (*or* before the Master in Chambers *or* the Master of the Supreme Court of Judicature at ——— at his office in the City (*or* Town) of &c., (*as the case may require*), on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or if opposed, then to a Judge in Chambers so soon thereafter as a Judge shall be sitting in Chambers), for judgment for the administration of the estate, real and personal, of ——— by the Court, (*or* for an order appointing ——— guardian of ———, an infant;) and upon such application will be read the affidavits of ——— this day filed, &c.

596. AFFIDAVIT BY CREDITOR FOR ADMINISTRATION

Of Estate of Deceased Person. (*Rule 944.*)

IN THE HIGH COURT OF JUSTICE.

In the matter of the Estate of C.D., deceased,
Between A.B., Plaintiff,
and
E.F., Defendant.

I, A.B., of etc., the above named plaintiff make oath and say as follows:—

1. That the above named C.D., was in his lifetime, and his estate still is justly and truly indebted to me in the sum of $———, for goods sold and delivered by me as a merchant, to the order and for the use of the said C.D. in his lifetime and at his request (*or as the case may be*).

2. That the particulars of the charges or items composing the said sum of $——— are set forth in the paper writing now produced and shown to me marked "A," and that the charges therein contained are fair and reasonable, and such as are customary in the trade of merchants.

3. And I speaking positively for myself and to the best of my knowledge and belief as to other persons say, that I have not, nor has nor have any person or persons by my order, or for my use received the said sum of $———, or any part thereof or any security for or on account of the said debt.

4. That the said C.D. died on or about the ——— day of ———, in the year, etc., having by his will bearing date the ——— day of ———, in the year, etc., devised the whole of his real estate unto the above named defendant, and thereby empowered him to sell such real estate and authorized him to give receipts for the rents and profits thereof, and for the produce of the sale of such real estate, and he thereby appointed the said defendant executor of his said will, which was duly provd by him in the Surrogate Court of the County of ———, on the ——— day of ———, in the year, etc., as I know from the perusal and inspection of a certified copy of the probate of such will.

597. AFFIDAVIT FOR ADMINISTRATION ORDER

By Legatee, Specific, Pecuniary or Residuary.

(*Formal Parts as in Preceding Form.*)

1. (*State succinctly the nature of the bequest, as thus*:) The above-named A.B., by his will dated the ——— day of ———, 19—, bequeathed to me all his household furniture and effects; (*or*, a legacy of $400, payable three months after his death; *or*, one-fifth of the residue of his personal estate and effects; *or*, an annuity of $80 during my life).

2. (*Prove that the defendant is the proper person to be sued, as thus*:) The said A.B. died on or about the ——— day of ———, 19—, and probate of his will has been granted to the defendant C.D. (*or as may be*).

3. (*Show that the bequest has not been satisfied, as thus*:) The household furniture and effects bequeathed to me, as aforesaid, have not yet been delivered to me. *Or*, The legacy of $400 bequeathed to me, as aforesaid, remains due to me from the said testator's estate. *Or*, The share of residue bequeathed to me, as aforesaid, has not been accounted for or paid to me. *Or*, I am now entitled to the said annuity of $80, bequeathed to me as aforesaid; but no provision to secure the due payment thereof has been made—(*or as may be*).

4. (*Show means of knowledge*).

598. AFFIDAVIT FOR ADMINISTRATION ORDER

By Next of Kin.

(*Formal Parts.*)

(*State the death of the person whose estate is to be administered, and show that the applicant is one of the next of kin, as thus*:)

1. The above-named A.B. died on or about the ——— day of ———, 19—, a bachelor, and intestate; and without leaving

any father, mother, sister or brother him surviving.

2. The said A.B. was the son of C.B., late of, &c. The said C.B. has had two children only, that is to say: (1) The said intestate A.B., and (2) My father, F.B.

3. The said F.B. died on or about the ——— day of ———, 19—. The said F.B. had three children only, that is to say: (1) My brother, the defendant, E.B.; (2) My sister, M.B., now the wife of W.H., of, &c.; and (3) Me, the deponent.

4. As a child of the intestate's said brother, F.B., I claim to be one of the next of kin of the said intestate A.B., and, as such, to be entitled to a distributive share of his personal estate. Such share has not been paid or accounted for to me.

(*Show that the defendant is the proper person to be made defendant, as thus*:)

5. Letters of administration of the personal estate of the said A.B. have been granted to the defendant, E.B. (*or as may be*).

599. JUDGMENT FOR ADMINISTRATION.

(*Rules 946, 947, 953.*)

Upon the application of the above-named plaintiff in the presence of the solicitor for the defendant (*or* no one appearing for the defendant, although duly notified as by affidavit filed appears), and upon hearing read the affidavits and papers filed, and what was alleged by the solicitor for the applicant (*or* solicitors for all parties):

1. It is ordered and adjudged that all necessary inquiries be made, accounts taken, costs taxed and proceedings had for the administration and final winding up of the personal (and real) estate of ——— and for the adjustment of the rights of all parties interested therein, by the Master of the Supreme Court of Judicature at ———.

2. And it is further ordered and adjudged that all balances which may be found due from the plaintiff or defendant (or any or either of them) to the said estate be forthwith after the same shall have been ascertained as aforesaid, paid into Court to the credit of this cause, subject to the further order of the Court.

3. And it is further ordered and adjudged that such personal (and real) estate, or such parts thereof, as the said Master may hereafter direct, be sold, as the said Master may direct, and that the purchasers do pay their purchase money into Court to the credit of this cause, subject to the order of the Court.

4. And it is further ordered and adjudged that the Master do execute conveyances for any infant parties who by reason of their tender years are unable to execute the same.

600. JUDGMENT FOR ADMINISTRATION ACCOUNTS.

(*Rules 620, 946, 953.*)

1. This Court doth order and adjudge that the following accounts and inquiries be taken and made by the Master of the Supreme Court of Judicature at ———, that is to say:

(1) An account of the personal estate of A.B., deceased, the testator in the pleadings mentioned, come to the hands of, &c.

(2) An account of the said testator's debts.

(3) An account of the said testator's funeral expenses.

(4) An account of the said testator's legacies.

(5) An inquiry as to what parts, if any, of the said testator's personal estate are outstanding or undisposed of.

2. And this Court doth further order and adjudge that the following further accounts and inquiries be taken and made, that is to say:

(6) An inquiry as to what real estate the said testator was seised of or entitled to at the time of his death.

(7) An inquiry as to what incumbrances affect the said testator's real estate.

(8) An account of the rents and profits of the said testator's real estate received by, &c.

(*Where a Sale is necessary:*)

(9) An account of what is due to each of the incumbrancers as shall consent to the sale hereinafter directed in respect of their incumbrances.

(10) An inquiry as to what are the priorities of such last-mentioned incumbrances.

3. And this Court doth further order and adjudge that the testator's real estate be sold, with the approbation of the Master of the Supreme Court of Judicature at ———.

4. And this Court doth reserve further directions and the question of costs, until after the said Master shall have made his report.

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601. ORDER FOR ADMINISTRATION.

Where Accounts Taken before the Judge.

Upon the application of counsel for the above-named plaintiff, in presence of counsel for the defendant, for an order for the administration of the personal estate and effects of the said ———, deceased, upon hearing read the affidavits of the plaintiff and the defendant filed, and upon hearing what was alleged by counsel aforesaid, and an account having been taken by this Court of the personal estate of the said intestate come to the hands of the said defendant, the administratrix of the said estate, wherewith she is chargeable:

1. This Court doth find that the said defendant has received and is chargeable with the sum of $———, and that she has paid or is entitled to be allowed thereout for debts and funeral expenses of the said intestate paid by her, and also the sum allowed to her as a compensation for her services, the sum of ———, leaving a balance in her hands, after deducting the costs of both parties hereinafter mentioned, of $———.

2. And it appearing afterwards on enquiry that there are no debts of the said intestate remaining unpaid, and that there is no personal estate of the said intestate outstanding or undisposed of, and it further appearing that the plaintiff and the defendant are respectively entitled to one-half of the residuary personal estate of the said intestate in the hands of the said defendant after payment of the costs of this matter; and the costs of the plaintiff having been taxed and allowed to him at $———, and the costs of the administratrix having been taxed and allowed to her at $———, it is ordered that the defendant do forthwith pay to the plaintiff his said costs together with the sum of $———, his share of the said residuary personal estate remaining in her hands as aforesaid.

602. ORDER REFUSING ADMINISTRATION.

Upon the application of ——— and upon hearing the solicitor for and upon reading, &c., and it appearing, etc.

1. It is ordered that the application be and the same is hereby refused with costs of this application to be paid by ——— to ——— forthwith after taxation thereof.

603. ADVERTISEMENT FOR CREDITORS

Of Deceased Person.

(Rule 701.)

JUDICIAL NOTICE TO CREDITORS.

Pursuant to a judgment (*or* an order) of the High Court of Justice, made in (the matter of the estate of A.B., and in) a cause S. against P. (*short title*), the creditors of A.B., late of ———, in the County of ———, who died in or about the month of ———, 19—, are, on or before the ——— day of ———, 19—, to send by post prepaid to E.F., of ———, the solicitor for the defendant C.D., the executor (*or* administrator) of the deceased (*or as may be directed*) their Christian and surnames, addresses and descriptions, the full particulars of their claims, a statement of their accounts, and the nature of the securities (if any) held by them; or in default thereof, they will be peremptorily excluded from the benefit of the said judgment (*or* order). Every creditor holding any security is to produce the same before me,

at my Chambers, at ———, on the ——— day of ———, 19—, at ——— o'clock in the ——— noon, being the time appointed for adjudication on the claims.

Dated this ——— day of ———, 19—.

Master.

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604. ADVERTISEMENT—JUDICAL NOTICE TO CLAIMANTS *(Other than Creditors) of a Deceased Person, to come in and Prove their Claims.*

JUDICIAL NOTICE TO CLAIMANTS.

Pursuant to a Judgment (*or* an order) of the High Court of Justice made in (*set out the short title of the matter or action; as thus*:) In the matter of the trusts of an Indenture dated the ———, day of ——— 19—, between A.B. and C.D. (*or* in an action A.B. against C.D. *or as may be*) bearing date the ——— day of ———, 19—, the (*state the special object of the advertisement; as thus*:) The persons claiming to be the heirs-at-law of A.B., late of (*residence and addition*) living at the time of the said A.B.'s death on the ——— day of ———, 19—.

Or, the persons claiming to be next of kin, according to the Statutes for the Distribution of Intestates' Estates, of A.B., late of, etc., living at the time of his death on the ——— day of ———, 19—, *or* to be the legal representatives of such of the said next of kin as are now dead;

Or, the persons claiming to be interested under a certain Indenture dated ——— day of ———, 19—, executed by A.B., then of, etc., for the benefit of his creditors;

Or, the persons claiming to be entitled to the legacy of $———, bequeathed by the will of the testator A.B., late of ——— in the County of ———, gentleman, to the child or children of his nephew R.S.;

Or, the persons claiming to be entitled to any mortgage, charge or other incumbrance upon or affecting the legacy of $———, bequeathed to L.M., now or late of (*residence and addition*) by the will of his father P.M., late of (*residence and addition*) who died on or about the ——— day of ———, 19—;

are, by their solicitors, on or before the ——— day of ———, 19—, at ——— o'clock in the forenoon, to come in and prove their claims, at the Chambers of the Local Master of the Supreme Court of Judicature at ——— (*or as may be*); or, in default thereof, they will be peremptorily excluded from the benefit of the said judgment (*or* order).

Dated this ——— day of ———, 19—.

Master at ———.

605. NOTICE OF CLAIM

Against Estate of Deceased Person given in pursuance of Advertisement.

(*Short Style of Cause as in the Advertisement.*)

I, the undersigned (*set out in full the Christian and surnames, address and description of the claimant*) beg to inform you that I claim to be a creditor upon the estate of A.B. late of, &c., (*as in the advertisement*) for the sum of $——— (*set out or refer to an enclosure containing the full particulars of the claim, as thus*: being money lent by me to the said A.B. on the ——— day of ———, 19—; *or* being for goods sold and delivered by me to the said A.B., the full particulars whereof are comprised in the paper writing marked "A" sent herewith); and that the only security I hold for the debt so due to me or any part thereof is: (*state the nature of the securities, if any; as thus*: an I.O.U. of the said A.B. for the said $——— dated the ——— day of ———, 19—; *or* and that I do not hold any security whatsoever for the debt so due to me or any part thereof.)

Dated at ——— the ——— day of ———, 19—.

(*Signature of creditor.*)

To (*Name and address of the person to whom by the advertisement the notice is directed to be sent.*)

606. NOTICE TO CREDITORS TO PRODUCE DOCUMENTS.

(*Rule 705.*)

(*Short Title.*)

You are hereby required to produce in support of the claim sent in by you against the estate of A.B. deceased (*describe any document required*), before the Master in Ordinary (*or other Master or officer*) at his Chambers at, &c., on the ——— day of ———, 19—, at ——— o'clock in the ——— noon.

Dated this ——— day of ———, 19—.

To ———.

Solicitor for ———.

607. AFFIDAVIT OF EXECUTOR OR ADMINISTRATOR

As to Claims (*Rule 708.*)

We, A.B., of, &c., the above-named plaintiff (*or* defendant, *or as may be*), the executor (*or* administrator,) of C.D., late of ——— in the County of ———, deceased, and E.F., of, &c., solicitor, severally make oath, and say as follows:—

I, the said E.F. (solicitor) for myself say as follows:—

1. I have, in the paper writing now produced and shown to me, and marked "A," set forth a list of all the claims the particulars of which have been sent in to me by persons claiming to be

creditors of the said C.D., deceased, pursuant to the advertisement issued in that behalf, dated the ——— day of ———, 19—.

And I, the said A.B., for myself, say as follows:—

2. I have examined the several claims mentioned in the paper writing now produced and shown to me, and marked "A," and I have compared the same with the books, accounts, and documents of the said C.D., (*or as may be, and state any other inquiries or investigations made*), in order to ascertain as far as I am able, to which of such claims the estate of the said C.D. is justly liable.

3. From such examination (*and state any other reasons*), I am of opinion, and verily believe, that the estate of the said C.D. is justly liable to the amounts set forth in the sixth column of the first part of the said paper writing marked "A"; and to the best of my knowledge and belief, such several amounts are justly due from the estate of the said C.D., and proper to be allowed to the respective claimants named in the said schedule.

4. I am of opinion that the estate of the said C.D. is not justly liable to the claims set forth in the second part of the said paper writing marked "A," and the same ought not to be allowed without proof by the respective claimants, (*or*, I am not able to state whether the estate of the said C.D. is justly liable to the claims set forth in the second part of the said paper writing marked "A," or whether such claims, or any parts thereof, are proper to be allowed without further evidence).

EXHIBIT REFERRED TO IN THE ABOVE AFFIDAVIT.

(*Short Title.*)

List of claims the particulars of which have been sent in to E.F., the solicitor of the plaintiff, (*or, defendant, or as may be*), by persons claiming to be creditors of C.D., deceased, pursuant to the advertisement issued in that behalf, dated ——— day of ———, 19—.

This paper writing, marked "A," was produced and shown to ——— and is the same as is referred to in his affidavit sworn before me this ——— day of ———, 19—.

W.B., &c.

First Part.—Claims proper to be allowed without further evidence.

Serial No.	Name of Claimants.	Addresses and Descriptions	Nature of Claim.	Amount Claimed.	Amount proper to be allowed.
					$ c.

Second Part.—Claims which ought to be proved by the Claimants.

Serial No.	Names of Claimants.	Addresses and Description.	Nature of Claim.	Amount Claimed.
				$ c.

608. AFFIDAVIT BY EXECUTOR

As to Incumbrances.

I, A.B., of (*residence and addition*), the above named defendant, and the executor of the will of ———, the testator in the judgment (*or* order) in this cause (*or* matter) dated the ——— day of ———, 19—, named (*or as may be*) make oath and say as follows:

1. I have not at any time received notice of any mortgage, charge, or incumbrance created by any person or persons interested under the will of the said ——— of the legacies, shares or interests thereby bequeathed to them respectively, or any part or parts thereof (*or as may be—according to the inquiry directed*)—*If so*: save and except the notices now produced and shewn to me, and marked respectively A., B., &c., and which notices were received by me on the respective days set forth in the first column of the schedule hereto; and the short particulars of the said notices are set forth in the second column of such schedule, opposite the respective days on which such notices respectively were so received.

The Schedule above referred to:

Date when notice received.	Short particulars.

609. NOTICE TO CREDITOR TO PROVE HIS CLAIM.

(*Rule 711.*)

(*Short Style of Cause.*)

You are hereby required to prove the claim sent in by you against the estate of A.B., deceased. You are to file such affidavit as you may be advised in support of your claim, give notice thereof to ———, Master (*or as the case may be*), on or before the ——— day of ———, 19—, and attend personally or by your solicitor at

his Chambers on the ——— day of ———, 19—, at ——— o'clock in the ——— noon, being the time appointed for adjudicating on the claim.

Dated this ——— day of ———, 19—.

To ———.

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610. NOTICE TO CREDITOR—CLAIM ALLOWED.

(Rule 711.)

(Short Style of Cause.)

The claim sent in by you against the estate of A.B., deceased, has been allowed at the sum of $———, (with interest thereon at ——— per cent. per annum from the ——— day of ———, 19—, and $——— for costs, *or as the case may be.*)

If part only allowed, add: If you claim to have a larger sum allowed, you are hereby required to prove such further claim, and you are to file *(as in Form No. 609.)*

Dated this ——— day of ———, 19—.

To ———.

---

611. AFFIDAVIT PROVING CLAIM IN MASTER'S OFFICE.

Claim due to an Estate.

(Court and Style of Cause or Matter.)

I, C.D., of *(residence and addition)* the executor of the will *(or* administrator of the personal estate) of E.F. late of *(residence and addition)* who died on the ——— day of ———, 19—, acting under probate of such will *(or* letters of administration of such estate) granted to me on the ——— day of ———, 19—, make oath, and say as follows:

1. *(State in numbered paragraphs the nature and existence of the debt.)*

And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that the said E.F. did not in his lifetime receive, and I have not, nor have nor hath any other person or persons by the order of the said E.F. or of my self, or for his or my use, received the asid sum of $——— or any security or satisfaction whatsoever therefor *(or as the case may be)*.

---

612. AFFIDAVIT PROVING CLAIM IN MASTER'S OFFICE

On Simple Contract.

1, A.B., the testator *(or* intestate) in the judgment *(or* matter) named, was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of $——— for *(state what, as in the following examples:)*

For money lent by me to the said A.B. at his request:

For money lent by me for the use of the said A.B. at his request:

2. The full particulars of my aforesaid demand are set forth in the paper writing now produced and shown to be, and marked A. (*where applicable, add*: The prices charged in the said paper writing marked A. are fair and reasonable, and such as are usual and customary in the trade or business of a timber merchant (*or as may be*) as I know from having carried on such trade, &c., for ——— years last past).

3. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say that I have not, nor hath nor have any other person or persons by my order or for my use, received the said sum of $———, or any part thereof, or any security or satisfaction whatsoever therefor (*or as the case may be*).

---

613. AFFIDAVIT PROVING CLAIM IN MASTER'S OFFICE

On a Judgment.

1. A.B., the testator (*or* intestate), named in the judgment dated the ——— day of ———, 19—, in this action (*or* matter), was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of $——— for principal money, and interest thereon at the rate of five per cent. per annum, from the ——— day of ———, 19—, upon and by virtue of a judgment recovered by me against the said A.B. in the High Court of Justice and duly signed in the Office of the Local Registrar of the said Court at ——— (*or as the case may be*), on the ——— day of ———, 19—, for the sums of $——— debt and $——— costs.

2. The said judgment now remains in full force and virtue.

3. And I, speaking positively for myself, etc., (*as in preceding form.*)

---

614. AFFIDAVIT PROVING CLAIM IN MASTER'S OFFICE

On Mortgage and Covenant to Pay.

1. By an Indenture dated the ——— day of ———, 19—, now produced and shown to me, and marked "A," and made between A.B. the Testator (*or* Intestate) in the judgment (*or* order) dated the ——— day of ———, 19—, in this action (*or* matter) named, of the one part, and myself of the other part, the said A.B. granted and conveyed Lot No. One in the First Concession of the Township of ———, in the County of ———, with the appurtenances, unto and to the use of me, my heirs and assigns; subject to a proviso for redemption thereof in case the said A.B. his

heirs, executors, or administrators should on the ——— day of ———, 19—, pay to me, my executors, administrators, or assigns, the sum of $5,000 with interest thereon in the meantime at the rate of six per cent. per annum; and the said A.B. for himself, his heirs, executors and administrators, thereby covenanted with me to pay me the said sum of $5,000 with interest as aforesaid, according to the said proviso. The said mortgage was given to secure the sum of $5,000 cash which was actually lent and advanced by me to the said A.B. at the date thereof (*or as the case may be*).

2. On the ——— day of ———, 19—, the said A.B. paid to me the sum of $1,000 on account of the said mortgage.

3. The said A.B., was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of $4,000 residue of the said $5,000 with interest on the said $4,000 at the rate aforesaid, from the ——— day of ———, 19—, upon and by virtue of the said indenture.

4. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, say that I have not nor hath, nor have, any other persons by my order or for my use received the said sum of $——— and interests, or any part thereof, respectively or any security or satisfaction whatsoever therefor save and except the said mortgage (*or as the case may be.*)

5. I further say that I am not now, and never have been since the date of the said mortgage, nor hath nor have any person or persons, by my order or to my knowledge or belief for my use, been in the occupation of the said mortgaged premises, or of any part thereof, or in receipt of the rents, issues or profits of the same or any part thereof.

---

615. AFFIDAVIT THAT NO CLAIMS RECEIVED

Under the Advertisement.

I, E.F. of (*place of business*), gentleman, the solicitor in this cause (*or* matter) for the above named plaintiff (*or*, defendant C.D.—*or as may be*) the executor (*or*, administrator) of A.B. late of (*residence and additions—as in the advertisement*), deceased, make oath and say, as follows:

1. No claim, or particulars of any claim, has or have been sent in to me (*if so, add*: or to my firm of F. & G. of aforesaid—*as in the advertisement*) by any person or persons claiming to be a creditor or creditors of the said A.B., deceased, pursuant to the advertisement issued in that behalf in cause (*or* matter) dated the ——— day of ———, 19—, and which was published in the ——— of the ——— day of ———, 19—.

616. NOTICE OF MOTION TO BE ADMITTED AS A CREDITOR

Before Apportionment Made.

On behalf of A.B. of (*residence and addition*).

1. That he may be allowed to rank as a simple contract creditor upon the estate of C.D. the testator (*or* intestate) in the judgment in this cause, dated the ——— day of ———, 19—, named, for the sum of ——— and for interest thereon at the rate of ——— per cent. per annum from the date of the said judgment.

2. That, notwithstanding the judgment on further directions (*or*, order for distribution) dated the ——— day of ———, 19—, the residue which will remain of the sum of ——— therein mentioned, after payment of the costs (thereby directed to be taxed) may be directed to be apportioned amongst the applicant in respect of his said debt and interest, and the several other creditors of the said C.D. whose debts are certified by the Master's report dated the ——— day of ———, 19—, in proportion to the respective amounts due to the applicant and the said other creditors.

3. That the apportioned sums may be directed to be paid to the applicant and the said other creditors accordingly.

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617. AFFIDAVIT BY JOINT EXECUTORS AND TRUSTEES

Verifying their accounts and answering usual enquiries as to real and personal estate.

We, A.B., of (*residence and addition*), C.D., of, &c., and E.F., of, &c., the above-named defendants (*or as may be*), severally make oath and say as follows:

1. We have according to the best of our knowledge, information and belief, set forth in the first Schedule hereunder written, a full, true and particular account and inventory of the personal estate of or to which G.H., the testator (*or* intestate) named (*or* referred to) in the judgment (*or* order) herein dated the ——— day of ———, 19—, who died on the ——— day of ———, 19—, was possessed or entitled at the time of his death (*if the judgment or order directs only an account of personal estate not specifically bequeathed, add*:) and not by him specifically bequeathed.

2. Save what is set forth in the said first Schedule (*if so;*) and what is by the said testator specifically bequeathed, the said testator (*or* intestate) was not, to the best of our knowledge, information and belief, at the time of his death possessed of, or entitled to, any debt or sum of money due to him from us or (any or) either of us, on any account whatsoever, or to any leasehold, or other personal estate, goods, chattels or effects, in possession or reversion, absolutely or contingently, or otherwise howsoever.

3. The debts of the said testator (*or* intestate) are those set forth in our affidavit made herein and filed on the ——— day of ———, 19—.

4. The testator's (*or* intestate's) funeral expenses have been paid; and the same consist of the items of disbursement numbered ——— and ——— in the account marked "A," hereinafter referred to (*or, if not paid, state the amount due, and to whom due; as thus*: the said testator's funeral expenses amount to $——— and the same remain due to J.S., of N., in the (county) of M., undertaker.)

5. We have in the account marked "A," now produced and shown to us, according to the best of our knowledge, information and belief, set forth a full, true and particular account of the personal estate of the said testator (*or* intestate), (*if so;*) not by him specifically bequeathed, which has come to our hands, or to the hands of (any or) either of us, or to the hands of any person or persons by our order (*or* by the order of (any or) either of us), or for our use or for the use of (any or) either of us; with the times when, the names of the persons from whom, and on what account the same has been received; and also a like account of the disbursement, allowances, and payments made by us or (any or) either of us, in respect of, or on account of, the said testator's (*or* intestate's) funeral expenses, debts and personal estate, together with the purposes for which the same were disbursed, allowed or paid.

6. We have, in the account marked "B," now produced and shown to us, according to the best of our knowledge, information and belief, set forth a full, true and particular account of the legacies left by the said testator.

7. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that save and except as appears in the said account marked "A," we have not, nor has (any or) either of us, nor have nor has any other persons or person by our order or by the order of (any or) either of us, or for our use or for the use of (any or) either of us possessed, received or got in, any part of the said testator's (*or* intestate's) personal estate, or any money in respect thereof; and that the said account marked "A," does not contain any item of disbursement, allowance or payment, other than such as has actually been disbursed, paid or allowed on the account aforesaid.

8. To the best of our knowledge, information and belief, the personal estate of the said testator (*or* intestate) now outstanding or undisposed of, consists of the particulars set forth in the second schedule hereunder written.

9. Save what is set forth in the said second schedule there is not, to our knowledge, information or belief, any part of the said testator's (*or* intestate's) personal estate now outstanding or undisposed of.

10. We have, according to the best of our knowledge, information and belief, set forth in the third schedule hereunder written

the particulars of all the real estate which the said testator (*or* intestate) was seized of or entitled to (*follow the words of the judgment or order, as thus*:)

At the time of his death:

Or, at the date of his will and at the time of his death (*and, in the latter case, if any estates were acquired between those periods, distinguish the same, as thus*:)

We have, according to the best of our knowledge, information and belief, set forth in the first part of the third schedule hereunder written the particulars of all the real estate of or to which the said testator (*or* intestate) was seized or entitled at the date of his will, and in the first and second parts of such schedule the particulars of all the real estate of or to which the said testator was seized or entitled at the time of his death.

11. Save what is set forth in the said schedule, the said testator (*or* intestate) was not, to the best of our knowledge, information or belief, at the date of his will or at the time of his death, seized of or entitled to any real estate in possession, remainder or reversion, absolutely or contingently, or otherwise howsoever.

12. We have, according to the best of our knowledge, information and belief, set forth in the fourth schedule hereunder written the particulars of all the incumbrances affecting the said testator's (*or* intestate's) real estate, and what part thereof such incumbrances respectively affect.

13. We have, in the account marked "C," now produced and shown to us, according to the best of our knowledge, information and belief, set forth a full, true and particular account of all the rents and profits of the said testator's (*or* intestate's) real estate, which have come to our hands or to the hands of (any or) either of us, or to the hands of any person or persons by our order or by the order of (any or) either of us, or for our use or for the use of (any or) either of us, and the times when, the names of the persons from whom, on what account, and in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances and payments made by us (or any) or either of us in respect of the said testator's (*or* intestate's) real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which the same were made.

And we, each speaking positively for himself, and to the best of his knowledge and belief as to other persons further say that, save and except as appears in the said account marked "C" we have not, nor has (any or) either of us, nor have nor has any other persons or person by our order or by the order of (any or) either of us, or for our use, or for the use of (any or) either of us possessed, received or got in, any rents or profits of the said

testator's (*or* intestate's) real estate, or any money in respect thereof; and that the said account marked "C" does not contain any item or disbursement, payment or allowance, other than such as has actually been disbursed, paid or allowed, as above stated.

THE FIRST SCHEDULE ABOVE REFERRED TO.

Account of the testator's (*or* intestate's) personal estate, at his death.

(*Set out the particulars, as in the following examples*:)

1. $500 cash in the house.

2. $1,000 cash at the testator's bankers, Messrs. A. & B.

3. $1,000 Standard Bank stock standing in the testator's name.

4. $100 due from C.D. for half year's rent of farm at ———, to 31st December, 19—.

5. $322.60 balance remaining due from E.F. on account of half year's rent of farm at ———, to 31st December, 19—.

6. $300 a debt due from G.H. on a bond with interest, from ——— at ——— per cent.

7. A leasehold house situate at ———, held under a lease for a term of ——— years, which will expire on ———, 19—, at a rent of $——— a year; underlet to L.M. for a term which will expire on ———, 19—, at a rent of $50 a year.

8. $75 a half year's rent due from the said L.M. on 1st December, 19—.

THE SECOND SCHEDULE ABOVE REFERRED TO.

Personal Estate outstanding or undisposed of (*set out particulars, as in the above examples*).

THE THIRD SCHEDULE ABOVE REFERRED TO.

(*Set out short particulars of the real estate, as in the following examples*:)

1. A freehold mansion and grounds attached, containing about three acres, situate at ——— and called "The Evergreens," in the testator's occupation at his death, and now in hand described as follows: (*give full description*).

2. A freehold farm called "Low End Farm," situate at ———, containing about 500 acres, and in the occupation of L.M., under a lease for a term which will expire on ———, 19—, at the yearly rent of $602, described as follows: (*give full description*).

3. Twenty freehold cottages, situate at ——— aforesaid, in the occupation of Michael Sullivan, &c., as weekly tenants, at rents amounting collectively to $——— a year, described as follows: (*give full description*).

THE FOURTH SCHEDULE ABOVE REFERRED TO.

Incumbrances affecting the real estate. (*Set out short particulars of the incumbrances, and show what part of the above real estate is subject to each, as in the following examples*:)

1. The mansion and grounds numbered "1" in the third schedule above written are subject to a mortgage created by the testator by indenture dated, &c., in favour of R.J., and now vested in A.S., of (*residence and addition*), as security for $500 due to him, with interest at 6 per cent. per annum.

2. The farm numbered "2" in the said third schedule is charged with the payment of an annuity of $40 to J.B., of, &c., widow, during her life, under the will of the testator's brother, E.H.

3. The closes of land numbered "3" in the said third schedule are subject to the dower of M.H., widow of the said testator (*or as the case may be*).

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618. ACCOUNT OF PERSONAL ESTATE.

"A."

(*Court and Style of Cause.*)

This account marked "A" was produced and shown to X.Y. (*or as may be*) and is the account referred to in his affidavit sworn before me this ——— day of ———, 19—.

(*Signature of the Commissioner or Officer before whom the affidavit is sworn.*)

RECEIPTS.

No. of Item.	Date when Received.	Names of Persons from whom Received.	On what Account Received.	Amount Received.	
				$	c.

DISBURSEMENTS.

No. of Item.	Date when Received.	Names of Persons to whom Paid or Allowed.	For what Purpose Paid or Allowed.	Amount Paid or Allowed.	
				$	c.

619. ACCOUNT OF LEGACIES.

"B."

(*Court and Style of Cause.*)

This account, marked "B," was produced and shown to X.Y., and is the account referred to in his affidavit sworn before me this ——— day of ———, 19—.

A Commissioner, &c.

Legacies left by the testator (*Or,* intestate.)

1. To his widow, H., all his household furniture (*Following the words of the will.*)
2. To his son, A.B., the sum of $———, payable (*Following the words of the will.*)
3. To his daughters, E.F. and G., the sum of $——— each, payable (*Following the words of the will.*)
4. To his son, E.B., Lot No. ———, in the Township of ———, in the County of ———, in fee (*or as may be, following the words of the will.*)

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620. ACCOUNT OF RENTS AND PROFITS.

"C."

(*Court and Style of Cause.*)

This account, marked "C," was produced and shown to X.Y., and is the account referred to in his affidavit, sworn before me this ——— day of ———, 19—.

RECEIPTS.

No. of Item.	Date when Received.	Names of Persons from whom Received.	On what Account and in respect of what part of the Estate Received and when Due.	Amount Received.	
				$	c.

DISBURSEMENTS.

No. of Item.	Date when Paid or Allowed.	Names of Persons to whom Paid or Allowed.	For what Purpose Paid or allowed.	Amount Paid or Allowed.	
				$	c.

621. NOTICE OF FILING

Accounts and Affidavit.

(*Short Style of Cause.*)

Take notice that I have this day filed in the office of the Master of the Supreme Court at ——— the accounts of the defendant A.B. (*or as the case may be*), in pursuance of the direction of the said Master made on the ——— day of ———, 19—, and an affidavit of the said defendant (*or as the case may be*) verifying the said accounts.

Dated at ——— the ——— day of ———, 19—.

To ———.

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622. CERTIFICATE OF COMPLIANCE

With Warrant of Master.

(*Short Style of Cause.*)

I certify that the defendant C.D. (*or as the case may be*) has brought in and filed in my office the several accounts and statements duly verified by affidavit, which by my warrant dated the ——— day of ———, 19— ,I directed him to bring in and file in my office in this action.

Dated at ——— the ——— day of ———, 19—.

Local Master at ———.

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623. CERTIFICATE OF DEFAULT

In Filing Accounts in Master's Office.

(*Short Style of Cause.*)

At the request of the plaintiff's solicitor, I certify that I did on the ——— day of ———, 19—, by my warrant in that behalf direct the defendant C.D. to (*specify the act as to which default has been made, e.g.*) bring in and file in my office on the ——— day of ———, 19—, the accounts in answer to the inquiries directed by the judgment made in this action, dated the ——— day of ———, 19—, duly verified by his affidavit, and to bring in and deposit in my office at the same time under oath all books of account, documents and papers relating to the estate of E.D., in the said judgment mentioned; but the said defendant C.D. although duly served with my said warrant (*or* notified of my said direction) hath not brought in and filed in my office any accounts in answer to the inquiries directed by the said judgment, or any affidavit in relation thereto, nor hath he brought in and deposited in my office any books of account, documents or papers relating to the estate of the said E.D. pursuant to my said warrant (*or* direction) as by my books appears.

Dated at ——— the ——— day of ———, 19—.

Local Master at ———.

624. SURCHARGE AGAINST AN ACCOUNTING PARTY.

(*Style of Cause.*)

The surcharge of the plaintiff (*or, as the case may be*) against the defendant (*or, as the case may be*) under the judgment (*or* order) in this action, dated the ——— day of ———, 19—.

The plaintiff seeks to charge the defendant with the several sums of money, hereinafter set forth, beyond what the said defendant has, by his account, marked "A," left at the office of the local Master of the Supreme Court of Judicature, at ——— on the ——— day of ———, 19—, pursuant to the said judgment (*or* order) admitted to have been received by him, that is to say:

(*Set out particulars of the surcharge concisely, thus:*)

No. of Item.	Date when Received.	Names of Persons from whom Received.	On what Account Received.	Amount Received.	
				$	c.

625. NOTICE OF SURCHARGE.

(*Full Style of Cause.*)

Take notice that the defendant seeks to charge the plaintiff A.B. with the several sums of money of which the amounts and particulars are set forth in the schedule hereunder written beyond what the said A.B. has admitted to have received by his account marked "A" filed in the office of the Master of the Supreme Court of Judicature for Ontario at ——— on the ——— day of ———, 19—, under the judgment (*or* order) in this cause bearing date the ——— day of ———, 19—, (*if an affidavit has been filed in support of the surcharge, add*) and that I have this day filed an affidavit of the plaintiff in support of such surcharge.

Dated this ——— day of ———, 19—.

To ———.

626. REPORT IN ADMINISTRATION ACTION.

(*Rule 697.*)

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

——— day the ——— day of ———, 19—.

Pursuant to the judgment herein dated the ——— day of ———, 19—, having caused an office copy thereof to be served upon (*state the names of persons served under Rule 203 or 660, and also the names of those service upon whom has been dispensed with and the reason for dispensing with service*), I proceeded to dispose of the matters referred to me, and thereupon was attended by the solicitors for all parties interested (*or as the case may be.*)

(*If a guardian ad litem has been appointed for any of the parties, this should be so stated, and the reason why such appointment was made.*)

and I find as follows:

1. The personal estate not specifically bequeathed of the testator come to the hands of the executors, and wherewith they are chargeable, amounts to the sum of $———, and they have paid, or are entitled to be allowed thereout, the sum of $———, leaving a balance due from (*or* to) them of $——— on that account.

(*If no personal estate say*: No personal estate has come to the hands of the executors, nor are they chargeable with any.)

2. The creditors' claims sent in pursuant to my advertisement in that behalf (published in ——— issues of the newspaper called ———), and which have been allowed, are set forth in the first schedule hereto, and amount altogether to $———.

(*If no creditors say*: No creditor has sent in a claim pursuant to my advertisement in that behalf, nor has any such claim been proved before me.)

3. The funeral expenses of the testator amounting to $——— have been paid by the executors and are allowed to them in the account of personal estate.

4. The legacies given by the testator are set forth in the second schedule hereto, and with the interest therein mentioned remain due to the persons named (*or as the case may be*).

5. The personal estate of the said testator outstanding or undisposed of is set forth in the third schedule hereto.

(*In this third schedule personal estate not specifically bequeathed should be set forth separately from the other personalty outstanding or undisposed of. If there is no specific bequest, it should be so stated in the body of the report.*)

6. The real estate which the said testator was seised of or entitled to, and the incumbrances (*if any*) affecting the same, are set forth in the fourth schedule hereto.

7. The rents and profits of the testator's real estate received by the said executors, or with which they are chargeable, amount to $———, and they have paid, or are entitled to be allowed thereout, the sum of $———, leaving a balance due from (*or* to) them of $——— on that account.

(*If no rents, &c., received say*: No rents and profits have come to the hands of the said executors, nor are they chargeable with any.)

8. I have allowed the said executors the sum of $——— as a compensation for their personal services in the management of the said estate.

(*For form of schedule see next page.*)

The First Schedule referred to in the Foregoing Report.

No.	Names of Creditors.	Principal.	Interest Allowed.		Costs (if any) subsequent to Judgment.	Costs of this Suit.	Total.
			Rate per cent.	Amount to date of Report.			

(*No general form can well be framed for the other Schedules, but in all cases brevity is to be studied. Where particulars are given they should show merely the general character of the things described; as, for instance, the Schedule of outstanding personalty may say*: A number of book debts outstanding amounting in the aggregate to $———; a quantity of household furniture and effects valued at $———; *and the like short particulars should be given in other cases. Lands should be described without setting forth metes and bounds.*)

627. JUDGMENT ON FURTHER DIRECTIONS

In Administration Action.

This matter coming on this present day to be heard on further directions and as to costs, in the presence of counsel for the plaintiffs and the defendants respectively, and upon hearing read the order made in this matter and bearing date the ——— day of ——— last, and the report of the Master of the Supreme Court of Judicature at ——— dated the ——— day of ——— last, and upon hearing what was alleged by counsel aforesaid:

1. This Court doth order and adjudge that the defendants do forthwith collect and get in the outstanding estate set out in the said report, and do pay the amount thereof into Court to the credit of this matter.

2. And this Court doth order and adjudge that the plaintiffs do forthwith pay into Court to the credit of this matter the balance found to be in their hands on account of the personal estate, and the rents and profits of the real estate by the said report with interest thereon from the date of the said report, less the sum of $——— allowed to the said plaintiff ——— as compensation for his services.

3. And this Court doth further order and adjudge that the real estate in the said report mentioned, or a sufficient portion thereof, be forthwith sold with the approbation of the said Master, who is to settle the conveyance or conveyances to the purchaser or purchasers.

4. And this Court doth further order and adjudge that the purchaser or purchasers do pay his, her or their purchase money into Court to the credit of this action, subject to the further order of this Court.

5. And this Court doth further order and adjudge that the plaintiff ——— do elect before the said Master whether she will take under the will of the said testator or will take dower in the said real estate, and in case she shall elect to take under the said will, then the said Master is to enquire and state what sum should be set apart out of the proceeds of the sale of the real estate, after payment of the costs of this action, and providing for the payment of incumbrances upon the said real estate, and the debts of the said testator which the personal estate shall prove insufficient to pay, to provide for the allowance given by the said will to the said ———, and that the interest upon such sum be paid out of Court half-yearly to her from time to time, during the remainder of her natural life, but subject to the reduction of the amount of such semi-annual payment in the event of the said ——— marrying again, as provided by the will of the testator.

6. And in case the said ——— shall elect to take dower in the said real estate the said Master is to enquire and state whether

she will elect to take a sum in gross in lieu of her dower, or to have one-third of the purchase money in which she is entitled to dower set apart for her, and in the latter event that such one-third be set apart, and the interest thereon be from time to time paid out to her half-yearly, during the remainder of her natural life.

7. And this Court doth further order and adjudge that the said Master do tax to the plaintiffs their costs of this action as between solicitor and client, and do tax to the Official Guardian his costs of this action.

8. And this Court doth further order and adjudge that the Master do take a subsequent account of the amount found due to the creditors in the report named, and add the amount thereof to their claims.

9. And this Court doth further order and adjudge that the money to be paid in by the plaintiffs be applied (1st) in payment of the costs of this action; (2nd) in payment of the creditors of the said testator; and that the balance, if any, together with the purchase money of the said land when paid in be applied (1st) in payment of those incumbrancers whose claims are a charge upon the said real estate and were charged thereon previous to the marriage of the said plaintiff; (2nd) in payment to the said ——— of the sum allowed to her in lieu of dower if she elect to take her dower, and a gross sum is allowed to her, or if a sum is set apart to be invested for her, then, and in such case that such sum be so set apart, and (3rd) in payment of the other creditors of the said testator in so far as the personalty was insufficient to pay them. And if the said ——— shall elect to take under the said will then after payment of the costs, claims and debts aforesaid, that out of the proceeds of the sale of the real estate a sufficient sum be set apart to satisfy the said allowance subject to reduction as aforesaid under the said will, to the said ———, and that the interest thereon from time to time be paid out to her during her life, but subject to the reduction before-mentioned, in the event of her marrying again, and (4th) that the balance be invested for the benefit of the defendant, and be paid out to him on his attaining his majority.

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628. NOTICE THAT CHEQUES READY.

(*Rule 714.*)

(*Short Style of Cause.*)

The cheques for the amounts directed to be paid to the creditors of A.B., deceased, by an order made in this action (*or* matter) dated the ——— day of ———, 19—, may be obtained at the Accountant's Office in Osgoode Hall, Toronto, on and after the ———day of ———, 19—.

Dated, &c.

To ———.

629. CONVEYANCE OF LAND

Sold by Direction of Master.

This Indenture, &c. Between, &c.

Whereas in an action of the High Court of Justice, in the matter of the estate of ——— late of ——— in the County of ——— Gentleman, deceased, between ——— and ——— defendant, an order was made bearing date the ——— day of ———, A.D. 19—, for the administration of the real and personal estate of the said ———.

And whereas by deed bearing date the ——— the lands and premises hereinafter described were conveyed to the parties of the first part as such executors.

And whereas on the approbation and by the direction of the Master in Ordinary the parties of the first part having agreed to sell the lands and premises hereinafter described for the price of ——— dollars, payable in cash on completion.

And whereas the said Master has approved of these presents as appears by his signature in the margin hereof.

Now this Indenture witnesseth that in consideration of the premises and of the sum of ——— dollars of lawful money of Canada they the said parties of the first part do grant and convey to the said party of the second part in fee simple. All and singular that certain parcel or tract of land and premises situate lying and being in the ———.

To have and to hold unto the said party of the second part his heirs, and assigns to and for his and their sole and only use forever, subject nevertheless to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said parties of the first part covenant with the said party of the second part that they have done no act to encumber the said lands.

And the said party of the third part hereby grants and releases to the party of the second part all her estate, right title and interest claim and demand in and to the said lands whether for dower or otherwise howsoever.

And the said parties of the first part release to the said party of the second part all their claims upon the said lands.

In witness whereof, &c.

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630. ADVERTISEMENT FOR NEXT OF KIN.

Judicial Notice to ——— (if living) or his next of kin ———.

Information is required of ——— last heard of ———, 19—, in the township of ——— County of ——— (*state occupation*) or his next of kin. Any person who can give information as to the

whereabouts of the said ——— or all persons claiming to be heirs or next of kin of the said ——— (if dead) are required to attend before the undersigned Master-in-Ordinary and to prove their claims (if any) at the Master's Chambers, Osgoode Hall, in the City of Toronto on or before the ——— and in default of such information the said ——— will be deemed to be dead and his interest in any money in Court, which he may (if living) be entitled to, will be distributed to such persons as shall then establish their right to share in such fund.

Dated at ——— this ——— day of ———, 19—.

Solicitors for the Applicant. Master-in-Ordinary.

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631. REPORT IN MATTER

Where Defendant is Presumed to be Dead.

Pursuant to the order made herein dated the ——— day of ———, 19—, I proceeded in presence of the Solicitors for the applicants, and the Official Guardian ad litem to dispose of the matter therein referred and I find as follows:—

1. The said defendant was last heard of in ——— and that he has not been heard of since, and that it is to be presumed that the said ——— is dead and that the plaintiff is entitled to the share of the said moneys in Court to the credit of this matter.

CHAPTER XXV.

FORECLOSURE AND REDEMPTION.

Rules 378-393, 595, 596, 744-758.

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632. JUDGMENT ON PRÆCIPE FOR FORECLOSURE OR SALE.

Account Taken by Registrar and Orders for Immediate Payment and Delivery of Possession.

(*Rule 596.*)

Upon the application of the plaintiff under Rule No. 596 of the Rules of the Supreme Court, and upon reading the writ of summons issued in this action, and indorsed under Rule No. 141 (and the statement of claim (*if any*) and statement of defence *where the facts entitling the plaintiff to judgment are admitted by the defence*) and the affidavit of ——— filed, &c., (*where judgment is obtained by default of appearance or defence add,* and the affidavit of ——— as to the service of the said writ on the defendant, and no appearance having been entered in the said action *or* and the defendant having made default in delivering a defence as by the books in the ——— office of the ——— at ——— appears:)

1. This Court finds that the subsequent interest at the rate of ——— per centum per annum on the sum of $——— principal money secured by the indenture of mortgage in the writ of summons (*or* pleadings) mentioned, up to the ——— day of ——— next, being the time appointed for payment as hereinafter mentioned, amounts to $———, and that the costs of the plaintiff amount to $———, which said subsequent interest and costs being added to the sum of $——— claimed by the indorsement on the writ served on the defendant make together the sum of $———.

2. And upon the said defendant paying the said sum of $——— into the ——— Bank at ——— between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the ——— day of ——— next, to the joint credit of the plaintiff and The Accountant of the Supreme Court of Judicature (*where order for payment granted insert*, or in case the plaintiff shall (*where judgment is for sale add*, before the sale hereinafter directed shall have taken place) recover the amount due to him under the order for payment hereinafter contained), it is ordered and adjudged, (subject to the provisions of section 3 of *The Mortgages Act*,) that the said plaintiff do assign and convey the mortgaged premises, and deliver up all documents relating thereto.

3. But in default of the said defendant making such payment by the time aforesaid, it is ordered and adjudged (*where judgment is for foreclosure, after* adjudged *add* that the said defendant do stand absolutely debarred and foreclosed of and from all equity of redemption in and to the mortgaged premises; *where judgment is for sale, then after the word* adjudged *add* that the said premises be sold, with the approbation of the Master of the Supreme Court of Judicature at ———).

4. (*If judgment is for foreclosure omit this clause.*) And it is further ordered and adjudged that the purchasers do pay their purchase money into Court to the credit of this cause, and that the same when so paid in be applied in payment of what has been found due to the said plaintiff together with subsequent interest and subsequent costs, to be computed and taxed by the said Master, and that the balance do abide the further order of the Court.

5. (*Where judgment is for immediate payment, add*:) And it is further ordered and adjudged that the defendant do forthwith pay to the plaintiff the sum of $———, being the amount due to him at the date hereof for principal money, interest and costs.

6. (*Where judgment is for recovery of possession add*:) And it is further ordered and adjudged that the defendant do forthwith deliver to the plaintiff, or to whom he may appoint, possession of the mortgaged premises, or of such part thereof as may be in the possession of the said defendant.

633. JUDGMENT DIRECTING REFERENCE FOR REDEMPTION

Or Foreclosure of Mortgaged Lands wherein Infants are Concerned.

1. It is ordered and adjudged that the Local Master of the Supreme Court of Judicature for Ontario at ——— do enquire and state whether a sale or foreclosure of the mortgaged premises in question in this cause would be more beneficial for the infant defendant A.B.

2. And it is further ordered and adjudged that all necessary enquiries be made, accounts taken, costs taxed, including the costs of the guardian ad litem of the said infant A.B., which are to be paid by the plaintiff and added to his own, and proceedings had for redemption or foreclosure or sale of the said premises, according as the said Master may find foreclosure or sale more beneficial.

3. And it is further ordered and adjudged, in the event of the said Master finding that a sale will be more beneficial, that the purchaser do pay his purchase money into court subject to further order; and that the same when so paid in be applied in payment of what is due to the plaintiff, together with subsequent interest and subsequent costs, including the subsequent costs of the said guardian, when computed and taxed.

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634. JUDGMENT FOR FORECLOSURE AND POSSESSION.

After Trial.

This action coming on for trial this day before this Court at the sittings holden at ——— for trial of actions without a jury in presence of counsel for the plaintiffs and the defendants and the Official Guardian ad litem for the infant defendants, no one appearing for the other defendants as to whom the pleadings have been noted as closed, upon hearing read the pleadings and upon hearing the evidence adduced and what was alleged by counsel aforesaid.

1. This Court doth order and adjudge that all necessary inquiries be made, accounts taken, costs taxed and proceedings had for redemption or foreclosure, and that for these purposes this action be referred to the Master of this Court at ———.

2. And this Court doth further order and adjudge that the costs of the Official Guardian, to be taxed be paid by the plaintiffs and added to the plaintiffs' costs of this action.

3. And this Court doth order and adjudge that the defendant do forthwith deliver to the plaintiffs or whom they may appoint possession of the lands and premises in this action or such part thereof as may be in the possession of the defendants or any of them.

635. JUDGMENT ON PRÆCIPE FOR REDEMPTION.

(*Title, Date, &c.*)

Upon the application of the plaintiff under Rule No. 596 of the Rules of the Supreme Court, and upon reading the writ of summons issued in this action and the statement of claim (*if any*) (and the statement of defence *where the facts entitling the plaintiff to judgment are admitted by the defence,*) and the affidavit of, &c., filed, &c., (*where judgment is obtained by default of appearance or defence, add*: and the affidavit of, &c., filed, &c., of service of the said writ on the defendant, and no appearance having been entered in the said action (*or* and the defendant having made default in delivering a defence) as by the books in the office of the ——— at ——— appears:)

1. It is ordered and adjudged that all necessary inquiries be made, accounts taken, costs taxed, and proceedings had for the redemption of the premises in question, and that for this purpose the cause be referred to the Master of the Supreme Court of Judicature at ———.

2. And, (subject to the provisions of section 3 of *The Mortgages Act*,) it is further ordered and adjudged that upon the plaintiff paying to the defendant what shall be found due to him, or in case nothing shall be found due to the defendant then forthwith after the confirmation of the said Master's report, the defendant do reconvey the said mortgaged premises, and deliver up all documents relating thereto.

3. And it is further ordered and adjudged that in case the plaintiff shall make default in payment as aforesaid of what may be found due from the plaintiff to the defendant that the plaintiff's action do stand dismissed out of this Court, with costs to be paid by the plaintiff to the defendant forthwith after taxation thereof.

4. And it is further ordered and adjudged that in case nothing shall be found due from the plaintiff to the defendant that the defendant do pay the plaintiff his costs of this suit forthwith after the taxation thereof, and in case any balance shall be found due from the defendant to the plaintiff that the defendant do pay such balance to the plaintiff forthwith after the confirmation of the Master's report.

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636. JUDGMENT FOR REDEMPTION AFTER TRIAL

Where the Right to Redeem was Disputed.

1. This Court doth declare that the release of the equity of redemption executed by the plaintiff as in the pleadings mentioned is null and void, and that the same ought to be set aside and delivered up to the plaintiff to be cancelled and that the plaintiff notwithstanding the said release is entitled to redeem the lands

and premises in the pleadings mentioned, and doth order and adjudge the same accordingly.

2. And this Court doth further order and adjudge that the Master of this Court (at ———) do take an account of what is due from the plaintiff to the defendant or from the defendant to the plaintiff on the footing of the agreement in the statement of claim mentioned, and if anything be found due to the defendant, the said Master is to tax to the plaintiff his costs of this action except as of a common redemption action, and to the defendant his costs as of a common redemption action and the costs of the plaintiff are to be deducted from the amount found due to the defendant for principal, interest and costs.

3. And upon the plaintiff paying to the defendant what if anything shall be certified to remain due for principal money interest and costs, within 6 months after the said Master shall have made his report, at such time and place as the said Master shall direct, or in case nothing shall be found due from the plaintiff to the defendant, this Court doth order and adjudge that the defendant do reconvey the mortgaged premises in the pleadings mentioned free and clear of all incumbrances done by him and deliver up all deeds, papers and documents in his possession or power relating thereto an oath to the plaintiff or to whom he shall appoint; and in default of payment as aforesaid of what if anything may be found due to the defendant, this Court doth order and adjudge that this action be dismissed out of this Court with costs as of a common redemption action to be paid by the plaintiff to the defendant forthwith after taxation thereof.

4. And in case it shall appear that there is nothing due to the defendant, this Court doth further order and adjudge that the defendant do pay to the plaintiff his whole costs of this action forthwith after taxation thereof. And in case a balance shall be found due from the defendant to the plaintiff then that the said defendant do pay such balance to the plaintiff forthwith after the confirmation of the Master's report.

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637. AFFIDAVIT OF NON-PAYMENT OF MORTGAGE.

1. I have not, nor hath nor have any person or persons by my order or to the best of my knowledge, information and belief, for my use, received the sum of ———, being the amount found due to me by the report of the Master at ——— (*or* the judgment) in this action, or any part thereof, or any security or satisfaction for the same or for any part thereof, but the whole of the said sum of ——— remains justly due and owing to me under the mortgage security in question in this cause.

2. I am not now, and since the date of the said mortgage never have been, nor hath nor have any person or persons by my order,

or for my use, been in possession of the lands and premises comprised in the said mortgage, or of any part thereof, nor in receipt of the rents, issues and profits of the same, or of any part thereof.

638. AFFIDAVIT OF NON-PAYMENT OF MORTGAGE

By Mortgagee in Possession.

1. I have not, nor hath nor have any person or persons by my order or to the best of my knowledge, information and belief, for my use, received the sum of ———, being the amount found due to me by the report of the Master at ———, (*or* the judgment) in this cause, or any part thereof, or any security or satisfaction for the same, or for any part thereof, but the whole of the said sum of ——— remains justly due and owing to me under the mortgage security in question in this cause.

2. I am in receipt of the rents and profits of the lands and premises comprised in the said mortgage; but I have not, nor hath nor have any person or persons by my order, or to the best of my knowledge, information and belief, for my use, received any greater sum in respect of rents, issues and profits of the said mortgaged premises than the amount wherewith I have been charged by the said Master in and by his said report (*or* by the said judgment). *Or,* I am and have been ,prior to and ever since the making of the said report, (*or* judgment) in the occupation of the lands and premises comprised in the said mortgage, and the said Master, in and by his said report, has charged me, (*or,* and I have been charged by the said judgment) with an occupation rent for the same up to the day appointed for payment.

639. AFFIDAVIT OF NON-PAYMENT OF MORTGAGE.

Made by Agent Where Mortgagee Out of Country.

1. The above-named plaintiff resides at ———, out of the jurisdiction of this Honourable Court, and he has been residing there even since ———, 19—.

2. I am the duly authorized agent of the said plaintiff in this Province, and by power of attorney, duly executed by the said plaintiff, I am authorized to collect and receive the moneys secured by the mortgage in question in this action, and the mortgage deed has been ever since ———, 19—, and still is in my custody and possession.

3. I have not, nor hath nor have any person or persons by my order or to the best of my knowledge, information or belief, for my use or for the use of the said plaintiff, nor to the best of my knowledge, information and belief, hath the plaintiff or any person or persons by his order received the sum of ———, being the amount found due to the said plaintiff by the (judgment *or* report) in this action, or any part thereof, or any security or satisfaction

for the same or for any part thereof, but the whole of the said sum of ——— remains justly due and owing to the said plaintiff under the mortgage security in question in this cause. (*If anything has been received on account, this clause must be varied, and what has been received must be stated.*)

4. I am not and since the date of the said mortgage never have been, nor hath the said plaintiff, nor to the best of my knowledge, information and belief, hath or have any person or persons by my or his order, or for my or his use, been in possession of the lands and premises comprised in the said mortgage, or of any part thereof, nor in receipt of the rents, issues and profits of the same, or of any part thereof.

640. APPOINTMENT BY MASTER

On Reference as to Incumbrances. (*Rule 748.*)

Having been directed by the judgment in this cause, dated the ——— day of ———, to inquire whether any person other than the plaintiff has any lien, charge or incumbrance upon the lands in the pleadings mentioned being (*insert description of lands*), I hereby appoint the ——— day of ——— next, at ——— o'clock in the ——— noon, at my Chambers at ———, to proceed with the said inquiries.

And you are hereby required to take notice that, if you fail to attend at the time and place appointed, the reference may be proceeded with in your absence, and you will be treated as disclaiming all interest in the land in question, and it will be dealt with as if you had no claim thereon, and your claim will be in fact foreclosed.

——— Master.

Dated this ——— day of ———, 19—.

641. NOTICE TO INCUMBRANCERS.

(*Rule 746.*)

Whereas an action has been instituted by the above-named plaintiff for the foreclosure (*or* sale) of (*or* enforcement of a lien on) certain lands (*insert description of lands*), and I have been directed by the judgment made in this cause and dated the ——— day of ———, 19—, to inquire whether any person other than the plaintiff has any charge or lien or incumbrance upon the said estate: and whereas it has been made to appear before me that you have each some lien, charge or incumbrance upon the said estate, and I have therefore caused you to be made party to this action, and have appointed the ——— day of ———, 19—, at ——— o'clock in the ——— noon for you to appear before me at my Chambers at ———, either in person or by your solicitor, to prove your claim:

Now you are hereby required to take notice: 1st, That if you wish to apply to discharge my order making you a party, or to add to, vary, or set aside the judgment, you must do so within fourteen days after the service hereof; and if you fail to do so, you will be bound by the judgment and the further proceedings in this cause, as if you were originally made a party to the action. 2nd, That if you fail to attend at the time and place appointed, you will be treated as disclaiming all interest in the land in question, and it will be dealt with as if you had no claim thereon, and your claim will be in fact foreclosed.

Dated this ——— day of ———, 19—.

To ———.

W.L.,
Master.

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642. REPORT.—ACTION FOR FORECLOSURE.

Subsequent Incumbrancers.

Pursuant to the judgment in this action as originally entitled dated the ——— day of ———, 19—, I was attended by the solicitor for the plaintiff, and it appearing to me by the certificates of the Registrar and the Sheriff of the County of ——— that E.F., G.H., &c., not before parties to this action, had some lien, charge or incumbrance upon the lands and premises in question subsequent to the plaintiff's mortgage in the pleadings mentioned, I caused them to be made parties defendants to this action, and it subsequently appearing to me that the said several persons so made parties had been duly served with process under the Rules in that behalf, I proceeded to dispose of the several matters to me referred by the said judgment, and was thereupon attended by the solicitor for the plaintiff, and I find as follows, that is to say:—

1. That there is due to the plaintiff for principal money on the mortgage in the writ in this action mentioned the sum of $———, and for interest thereon at the rate of ——— per cent. per annum from the ——— day of ———, 19—, to the date of this my report the sum of $———, and for costs of this action as taxed the sum of $———, and for subsequent interest on the aforesaid principal sum from the date of this my report for six months the sum of $———, making together the total amount of $———.

2. That there is due to the said E.F., so made party defendant as aforesaid, under a certain mortgage bearing date the ——— day of ———, 19—, made by the said defendant to the said E.F., the sum of $——— for principal money, and for interest thereon at the rate of ——— per cent. per annum from the ——— day of ———, 19—, to the date of this my report, the sum of $———, for costs taxed to the said E.F., as such defendant the sum of $— —, and for subsequent interest for six months from the date hereof the sum of $———, making the sum total due to the said E.R. as such incumbrancer to be $———.

3. That there is due to the said G.H., so made party defendant as aforesaid, under a certain ———, &c. (*as in paragraph 2.*)

4. And I have hereunto annexed a schedule of the several accounts so taken under the said reference.

5. And I appoint for payment by the said defendant C.D. by the said judgment as originally entitled to the said plaintiff and to the said ——— of the said several amounts so found due to them respectively to the joint credit of them and of each of them and of the Accountant of the Supreme Court of Judicature, at the ——— Bank in the ——— of ——— in the Province of Ontario, between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the ——— day of ——— now next after the date hereof, being six months from the making of this my report in this action.

6. And the said X.Y., so made party defendant in my office, not having come in and proved any claim before me under the reference has made default and is absolutely debarred and foreclosed by so having made default of all right, title and interest in the said mortgaged premises, and I hereby declare him foreclosed accordingly, and the plaintiff and the said E.F. and G.H. who have come in and established their claims before me are the only incumbrancers upon the said lands and premises other than those (if any) prior to the said plaintiff's mortgage.

7. And being also directed to ascertain and find the priorities of the said several parties incumbrancers upon the said lands and premises, I find that they stand thereupon in the order following, that is to say: (*set them out.*)

All which having been proved to my satisfaction by proper and sufficient evidence I humbly certify to this Honourable Court.

Dated the ——— day of ———, 19—.

Master at ———.

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643. REPORT UNDER A JUDGMENT FOR FORECLOSURE.

Where Subsequent Incumbrancers are Made Parties in His Office, But do Not Prove Any Claim.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D. (By writ), and E.F. and G.H. made parties in the Master's Office, Defendants.

1. In pursuance of the judgment in this action, as originally entitled bearing date the ——— day of ———, 19—, I was attended by the plaintiff's solicitor; and it appearing to me by the respective certificates of the Sheriff and Registrar of the County of ———, that the said E.F. and G.H. not before ——— parties to

this action, have some lien, charge or incumbrance upon the lands and premises embraced in the mortgage security of the said plaintiff in the writ of summons in this action mentioned subsequent thereto, and ought to be made parties, I did on the ——— day of ——— order that they should be made parties to this action, according to the Rules of the Supreme Court of Judicature.

2. And it subsequently appearing to me that the notice in accordance with Form 77 referred to in Rule 746 of the said Rules, had been duly served upon each of the said E.F. and G.H., and that the proper warrant giving the defendant C.D. notice of this proceeding had been served on him I proceeded to hear and determine the matters referred to me by the said judgment and thereupon I was attended by the solicitor for the said plaintiff (no one attending on the part of the said C.D., E.F. or G.H., though duly notified as aforesaid):

3. And I find that at the date of this my report, there is due to the said plaintiff, for principal money, interest and costs, and that there will accrue due to him for subsequent interest upon his said mortgage security, the sums following, viz.:

644. MASTER'S REPORT ON TAKING A SUBSEQUENT ACCOUNT.

1. In pursuance of the (judgment in this action, as originally entitled), bearing date the ——— day of ———, I have been attended by the respective solicitors for the said plaintiff, and ———; and having heard the evidence adduced, and considered of the matters thereby to me referred, I find as follows:

1. Having by my report made in this action, bearing date the ——— day of ———, found to be due to the said plaintiff for principal, interest and costs, subsequent interest and subsequent costs, upon his mortgage security in the writ of summons in this action mentioned, up to the ——— day of ———, the sum of $———, I proceeded to take an account of subsequent interest, and have taxed to the plaintiff his subsequent costs all of which appears as follows:

(*Set out account.*)

And I appoint the said sum of $———, &c. (*as in last paragraph of next form.*)

645. MASTER'S REPORT.

Plaintiff Redeemed by Subsequent Incumbrancer.

In pursuance of the judgment made in this cause, as originally entitled, bearing date the ——— day of ———, I have been attended by the solicitor for the said ——— (*the incumbrancer*) no one attending on the part of the said (*the mortgagor*) although

duly notified, and having heard the evidence adduced and considered of the matters to me referred, I find as follows:

1. Having by my report made in this cause, bearing date the ——— day of ——— found to be due to the said plaintiff for principal, interest and costs, and for subsequent interest up to the ——— day of ———, upon his mortgage security in the bill in this cause mentioned, the sum of $———.

And having also in and by the said report found to be due to the said ——— for principal, interest and costs upon his judgment (*or mortgage as the case may be*) in the said report set forth, up to the ——— day of ——— the sum of $———.

And the said ——— having redeemed the said plaintiff by paying to him the said sum of $———.

I proceeded to take an account of subsequent interest, and have taxed to the said ——— his subsequent costs; all of which appears as follows:

(*Set out account.*)

And I appoint the said sum of $——— to be paid by the said ——— (*the mortgagor*) into the (branch) office in the ——— of ——— of the ——— Bank, to the joint credit of the said E.F. and the Accountant of the Supreme Court of Judicature for Ontario, between the hours of ten of the clock in the morning and three of the clock in the afternoon of the said ——— day of ———, being one calendar month next after the making of this my report.

All which, &c.

Dated at, &c.

Master at ———.

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646. CERTIFICATE OF BANK MANAGER

As to Non-payment.

(*Short Style of Cause.*)

I, A.B., of the ——— of ——— in the County of ———, Manager (*or* Cashier) of the ——— Bank at its branch or agency office in the ——— of ———, do hereby certify that the above-named defendant C.D. hath not nor hath nor have any person or persons on his behalf at any time before and up to the date of this certificate paid into or tendered at the said Bank at its said branch or agency to the credit of the above-named plaintiff E.F., or to the joint credit of the said plaintiff and the Accountant of the Supreme Court of Judicature for Ontario, the sum of $——— or any part thereof.

Dated at ——— this ——— day of ———, 19—.

Witness:

Manager (*or* Cashier).

647. AFFIDAVIT VERIFYING CERTIFICATE OF BANK MANAGER.

(*Title of Court and Style of Cause.*)

I, ———, of ———, in the County of ———, Clerk, make oath and say as follows:

1. I was present and did see ——— of ———, Esquire, sign the above certificate, on the ——— day of ———, 19—, and that the name "———" is of his proper handwriting.

2. The said ——— is the Manager of the ——— Bank at ——— aforesaid.

3. The name "———," thereto subscribed as the party witnessing the same, is of my proper handwriting.

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648. FINAL ORDER OF FORECLOSURE.

Upon the application of the plaintiff, and upon hearing the solicitor for the plaintiff, and upon reading the ———:

1. It is ordered that the defendant C.D. do stand absolutely debarred and foreclosed of and from all right, title and equity of redemption of, in and to the mortgaged premises in the pleadings mentioned.

Master in Chambers.

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649. CERTIFICATE OF FORECLOSURE ORDER

For Registration.

This is to certify that by an order, bearing date the ——— day of ———, 19—, and made by the said Court in a certain action pending therein, wherein A.B. is plaintiff and C.D. is defendant, it was ordered that the said defendant C.D., should stand absolutely debarred and foreclosed of and from all right, title, and equity of redemption of, in and to, the mortgaged premises, in the pleadings in the said action mentioned, being all and singular (*describe lands*). And at the request of the said Plaintiff this certificate is given for the purpose of registration, pursuant to the Statute in such case made and provided.

Given under my hand, and the seal of the said Court, this ———day of ———, 19—.

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650. DEMAND OF POSSESSION BY MORTGAGEE

After Final Order of Foreclosure.

(*Short Style of Cause.*)

I hereby require you forthwith to quit and deliver up possession of the lands and premises in question in this cause, being Lot Number ——— in the ——— Concession of the Township of ———

in the County of ———, to me (*or* to my agent C.D.), I having obtained a final order of foreclosure against you in this cause dated the ——— day of ———, 19—.

Dated, &c.

To the Defendant E.F.

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651. NOTICE OF MOTION TO OPEN FORECLOSURE.

On behalf of the defendant, for an order vacating the final order of foreclosure obtained by the plaintiff in this cause, dated the ——— day of ———, and extending the time for the defendant to redeem the plaintiff until the ——— day of ———, next, upon such terms as to the Court may seem just; and for taking such further accounts as may be necessary in the premises.

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652. ORDER OPENING FORECLOSURE

And Allowing Party to Prove Claim.

1. It is ordered that the foreclosure effected in this cause by the said report be opened and the said ——— be allowed to prove his claim before the said Master as if he had come in before the making of the said report.

2. And it is further ordered that in the event of the said ——— proving his said claim the day to be appointed for payment is to be the same as that appointed in and by the said report for payment of the plaintiff's claim.

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653. NOTICE OF MOTION

To Enlarge the Time to Redeem.

For an order that the time for the defendant to redeem the lands and premises comprised in the said mortgage may be enlarged for six calendar months.

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654. NOTICE OF CREDIT.

(*Court and Style of Cause.*)

Take notice that the plaintiff hereby gives you credit for the sum of $———, as a payment on account of the amount found due to the plaintiff by the judgment (*or* Master's report) herein. (The said sum of $——— being the arrears of rent received by the plaintiff from ——— tenant of the mortgaged premises since the date of the said judgment (*or* report, *or as the case may be.*)

And further take notice that the plaintiff claims that there remains due to him in respect of his mortgage the sum of $———, which said sum is the amount to be paid by you into the bank at the ———, between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the ——— day of ——— next, to

the joint credit of the plaintiff and the Accountant of the Supreme Court of Judicature, pursuant to the said judgment (*or* report) instead of the amount mentioned therein.

Dated, &c.

To ———.

Solicitor for the plaintiff.

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655. ORDER APPOINTING A NEW DAY

For Payment of Mortgage Money Where No New Account Taken.

Upon the application of the plaintiff, and upon hearing read the report of the Master of this Court at ———, bearing date, &c.

1. It is ordered that the said defendant ——— do pay the sum of ——— by the said report found due to the plaintiff, into the ——— to the joint credit of the said plaintiff and the Accountant of the Supreme Court of Judicature for Ontario, between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the ——— day of ———, instead of the time and place mentioned in the said report.

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656. ORDER TAKING A NEW ACCOUNT

And Appointing A New Day For Redemption.

Upon the application of ——— and upon hearing, &c., and it appearing that, &c. And an account having been taken of the amount due to the ——— for subsequent interest upon the sum of $——— the principal money secured by mortgage in this action since the time appointed for payment by ——— up to the day hereinafter appointed for payment, the same amounts to the sum of $———, which said sum being added to the sum of $———, the amount found due by the ———, and they make together the sum of $———.

1. It is ordered that upon the —— paying the said sum of —— into the —— of ——, at its branch or agency office in the —— of ——— between the hours of ten o'clock in the forenoon, and one o'clock in the aforenoon of the ——— day of ——— to the joint credit of the ——— and the Accountant of the Supreme Court of Judicature for Ontario; the said ——— do assign and convey the land and premises in the pleadings mentioned free and clear of all incumbrances done by ———, and deliver up all deeds and writings in ——— custody or power relating thereto upon oath to the said ———, or to whom ——— may appoint.

2. It is further ordered that in default of the said ——— making such payment as aforesaid, he be absolutely debarred and foreclosed of and from all right, title and equity of redemption of in and to the said mortgaged premises (*or* that the said mortgaged premises be sold) as by the judgment herein directed.

657. ORDER TO TAKE NEW ACCOUNT

And Appoint New Day for Redemption.

1. It is ordered that it be referred back to the Master of this Court at ——— to take a new account of the amount due to the plaintiff, and to appoint a new day for redemption, one month after the said Master shall have made his report.

2. And it is ordered that upon the defendants (*the subsequent incumbrancers who have proved claims*) paying to the said plaintiff the amount which may be found due to him at such time and place as the said Master shall appoint, that he do assign and convey the mortgaged premises in the pleadings mentioned, and deliver up all deeds relating thereto, pursuant to the judgment in that behalf.

3. But in default of the said defendants making such payment as aforesaid, it is ordered that they do stand absolutely debarred and foreclosed of and all right, title and equity of redemption of, in and to the said mortgaged premises as by the said judgment directed.

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658. ORDER FOR RECONVEYANCE OF MORTGAGED PREMISES

In Action for Redemption under Rule 758.

Upon motion this day made unto this Court by Mr. ——— of counsel for the plaintiffs, in presence of counsel for the defendants, upon opening of the matter, upon hearing read the pleadings, the judgment herein dated the ——— day of ———, 19—, the report and other proceedings herein, and the affidavits of ——— and ——— filed, upon hearing what was alleged by counsel aforesaid, and it appearing that the said plaintiff has appointed the said ——— to receive an assignment of the said mortgaged premises:

1. This Court doth order that the balance of the money paid into Court to the credit of this action with accrued interest (if any) be forthwith paid out to the said defendants.

2. And upon payment by the plaintiffs to the said defendants of any further sum that may be necessary to satisfy the amount of their claim for principal, interest and costs, including their costs of this application, to be taxed and computed by ———, this Court doth further order that the said defendants do by a good and sufficient conveyance, to be settled by the said ——— in case the parties differ about the same, convey and assign the lands and premises in the pleadings mentioned to the said ———, free and clear of all incumbrances done by them, and do deliver upon oath to the said ——— all deeds, papers and writings in their or either of their custody or power relating to the said lands; but in default of such payment as aforesaid, that the plaintiffs be foreclosed of and from all right, title and equity of redemption of, in and to the mortgaged premises.

4. And in case of redemption or foreclosure this Court doth order and adjudge that all further necessary enquiries be made, accounts taken, costs taxed, and proceedings had for redemption or foreclosure of the said mortgaged premises by the said ———, and the plaintiffs' costs of this action are to be costs in the cause.

CHAPTER XXVI.

SALE.

(*Rules 716-743.*)

659. JUDGMENT ON PRÆCIPE FOR SALE

Or Foreclosure with Reference as to Incumbrances, &c., and Orders for Immediate Payment and Delivery of Possession.

(*Rule 596.*)

Upon the application of the plaintiff under Rule No. 596 of the Rules of the Supreme Court, and upon reading the writ of summons issued in this action and indorsed under Rule No. 141, (and the statement of claim (*if any*) and statement of defence *where the facts entitling the plaintiff to judgment are admitted by the defence*), and the affidavit of, &c., filed, &c., (*where judgment is obtained by default of appearance or defence, add*: And the affidavit of, &c., filed, &c., of service of the said writ on the defendant, and no appearance having been entered in the said action (*or* and the defendant having made default in delivering a defence as by the books in the Central Office *or* the office of the ——— at ——— appears):

1. It is ordered and adjudged that all necessary inquiries be made, accounts taken, costs taxed and proceedings had for redemption or sale (*or* redemption or foreclosure), and that for these purposes this cause be referred to the Master of the Supreme Court of Judicature at ———.

2. And it is further ordered and adjudged that the defendant do forthwith pay to the plaintiff the amount which shall be found due to the plaintiff after the making of the Master's report herein for principal money, interest and costs at the date of the said report and that upon payment of the amount so found due to the plaintiff (*when judgment is for sale, add*: before the sale hereinbefore directed shall have taken place) that (subject to the provisions of section 3 of *The Mortgages Act*) the plaintiff to assign and convey the mortgaged premises, and deliver up all documents relating thereto.

3. *Where judgment is for recovery of possession, add*: And it is further ordered and adjudged that the defendant do forthwith deliver to the plaintiff, or to whom he may appoint, possession of the lands and premises in question in this cause, or of such part thereof as may be in the possession of the said defendant.

660. JUDGMENT FOR SALE

Of Mortgaged Lands wherein Infants are Concerned.

And an account of interest having been taken upon the principal sum of $——— up to the day hereinafter appointed for payment, the same amounts to $———, and the plaintiff's costs having been taxed, including the costs of the guardian of the infant defendant, at $———, which have been paid by the plaintiff and added to his own, the said sums when added together make the sum of $———.

1. It is ordered and adjudged that upon the defendant paying the said sum into the ——— Bank at ——— between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the ——— day of ——— next to the joint credit of the plaintiff and the Accountant of the Supreme Court of Judicature for Ontario, the plaintiff do assign and convey the mortgaged premises in question in this cause to the defendant or to whom he may appoint, free and clear of all incumbrances done by him, and deliver up all deeds and writings in his custody or power relating thereto upon oath to the defendant or to whom he may appoint.

2. And it is further ordered and adjudged that upon default of the defendant making such payment by the time aforesaid the mortgaged premises be sold by public auction, tender or private contract, and that for this purpose it be referred to the Local Master of the Supreme Court of Judicature at ———, by whom the conveyance to the purchaser is to be settled.

3. And it is further ordered, that the purchaser do pay his purchase money into Court to the credit of this cause, subject to further order; and that the same when paid in be applied in payment of what is due the plaintiff, together with subsequent interest and subsequent costs, including the subsequent costs of the said guardian, when computed and taxed.

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661. CONSENT OF WIDOW TO SALE OF LANDS FREE FROM DOWER.

(*Full Style of Matter.*)

I, M.B., of ——— in the County of ———, widow of A.B., deceased, do hereby consent that Lots (*describe land as in petition*) be sold under the order of this Honourable Court to be made in this matter freed from my dower, and I do hereby agree to join in the conveyance of the same, and to accept such gross sum out of the proceeds of such sale, in lieu of my said dower, as this Honourable Court shall think reasonable.

Dated, &c.

662. CONSENT OF ADULT PARTIES TO SALE OF LANDS.

(*Full Style of Cause.*)

I, H.B. of ——— in the County of ———, yeoman, do hereby consent that the lands and premises mentioned in the petition in this matter, namely, Village Lot Number Six, &c., (*describing lands as in the petition*), be sold under the direction of this Honourable Court, and I agree to join in the conveyance to the purchaser, and to accept such part of the purchase money as may be awarded to me by this Honourable Court.

Dated, &c.

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663. CONSENT OF MORTGAGEE TO SALE.

(*Full Style of Cause.*)

I, C.D. of ——— in the County of ———, merchant, the mortgagee of Lot Number, &c., (*describing it as in the petition*), do consent that the said lot be sold freed from my said mortgage, under the order of the Court made herein, and I do hereby agree to accept payment of my mortgage debt out of the proceeds of the sale to be had under such order, and upon such payment to release and discharge my said mortgage.

Dated, &c.

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664. NOTICE TO BIND INFANT AFTER COMING OF AGE.

To be Endorsed on Copy of Judgment.

Take notice that unless you, within ——— days after the service thereof upon you, shew unto the High Court of Justice for Ontario, good cause why the within judgment (*or*, order) should not be binding upon you, you will be bound by the said judgment (*or* order), and the same will stand and be absolute against you.

Dated, &c.

To the defendant.

Solicitor for plaintiff.

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665. ORDER TO TAKE A NEW ACCOUNT AND APPOINT A NEW DAY.

Where Judgment is For Sale.

1. It is ordered that it be referred back to the Master of this Court at ——— to take a new account of the amount due to the plaintiff (and the subsequent incumbrancers) and to appoint a new day for redemption, one month after the said Master shall have made his report.

2. And it is further ordered that upon the defendant A.B. paying to the plaintiff and the said subsequent incumbrancers the amount which may be found due to them, at such time and place

as the said Master shall appoint, that they do assign and convey the mortgaged premises, and deliver up all deeds relating thereto to the defendant A.B. or enter up satisfaction upon the roll of their judgments, pursuant to the judgment in that behalf.

3. But in default of the said defendant A.B. making such payments as aforesaid, it is ordered that the said mortgaged premises be sold, pursuant to the said judgment.

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666. ORDER FOR SALE IN LIEU OF FORECLOSURE

Where Foreclosure Directed by Judgment. (Rule 379.)

Upon the application of the defendant ——— the (second) subsequent encumbrancer added as a party defendant in the Master's office, and the said defendant having deposited in Court to the credit of this action pursuant to Rule 380 the sum of ——— dollars to secure a sale of the mortgaged premises in question in this action, as by the Accountant's certificate dated the ——— day of ———, 19—, appears, and it appearing that the Local Master of this Court at ———, to whom this action stands referred, has not yet settled his report:

1. It is ordered that all necessary enquiries be made, accounts taken, costs taxed, and proceedings had for the redemption or sale of the mortgaged premises, instead of for the redemption or foreclosure thereof as by the judgment herein was directed.

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667. JUDGMENT FOR IMMEDIATE SALE AND POSSESSION.

1. This Court doth order and adjudge that all necessary inquiries be made, accounts taken, costs taxed, and proceedings had, for the immediate sale of the mortgaged premises in question herein without the appointment of any day for redemption of the said mortgaged premises, and that for these purposes this action be referred to the Master of the Supreme Court of Judicature for Ontario at ———.

2. And this Court doth further order and adjudge that the defendants do forthwith deliver to the plaintiff or to whom he may appoint possession of the mortgaged premises or of such part thereof as may be in possession of the said defendants respectively.

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668. FINAL ORDER FOR SALE.

Foreclosing Incumbrancers.

1. It is ordered that the lands and premises in the writ of summons (*or* pleadings) mentioned, or a competent part thereof, be sold in pursuance of and in manner directed by the judgment in this action, with the approbation of the Master of the Supreme Court of Judicature for Ontario at ———.

2. (*Add if necessary:*) And it is further ordered that the defendants ——— do stand absolutely debarred and foreclosed of and from all right, title and interest of, in and to the mortgaged lands and premises in the writ of summons (*or* pleadings) mentioned.

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669. NOTICE OF ELECTION

That Defendant Conduct Sale. (*Rule 383.*)

Take notice that the plaintiff elects that the sale of the mortgaged premises be conducted by you instead of by the plaintiff, and you are at liberty to withdraw the deposit made by you in this cause for the purpose of such sale.

Dated, &c.

To the defendant's solicitor.

Plaintiff's solicitor.

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670. DIRECTION OF MASTER FOR ADVERTISING.

Endorsed on Settled Advertisement.

To be inserted in the Ontario Gazette on the ——— day of ——— next and in the ——— Newspaper on the ——— and ——— days of the same month, or on the day of publication in the week ending nearest to those days, and to be put up and continued on the door of the Court House of the County of ——— and in some conspicuous place in the Post Office nearest to the lands.

Master.

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671. AFFIDAVIT VERIFYING ADVERTISEMENT.

1. That I am well acquainted with Lot No. ——— in the ——— Concession of the Township of ——— in the County of ——— being the premises ordered to be sold in this action.

2. That the said lot consists of two hundred acres of land, of which one hundred acres are cleared and the remainder well timbered with beech and maple. The land cleared is of a light loam in a good state of cultivation (*give full particulars as to character of soil, improvements, &c.*)

3. The said lot is situate about seventeen miles from the Town of ———, and there is ready access, by good roads, to the said town, which offers a good market for the sale of produce.

4. The said lot in addition to being well timbered is also well watered, and has erected thereon farm buildings consisting of (*fully describe them, saying whether of brick or wood, and how long erected.*)

5. There is a good orchard consisting of ——— acres of land, well stocked with excellent fruit trees.

6. The lot is well fenced.

7. There is a prior mortgage on the property (*if so*) for the sum of ——— dollars, payable to (*state particulars*).

8. The lot is now in the occupation of (*state particulars of tenancy*).

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672. AFFIDAVIT OF FITNESS OF AUCTIONEER

And as to Place and Date of Sale.

1. That I am well acquainted with A.B., of the ——— of ———, in the County of ———, auctioneer.

2. That the said A.B. has resided in the said ——— of ——— being the place where the lands and premises in question in this cause are directed to be sold, during the space of ——— years last past, during which period he has carried on the business of an auctioneer and land agent generally.

3. That the said A.B. is of good repute for integrity and skill in his said business, and is willing to undertake the management and conduct of the sale of the said lands and premises, and is to the best of my judgment and belief in all respects a fit and proper person to be entrusted and employed in the sale thereof.

4. That the ——— Hotel in the Town of ———, is the place where auction sales of land are most usually held in the said town, and I believe it is the best and most convenient place in which to offer the lands in question for sale; and I further say that ——— day is the most usual day of the week for holding such sales in the said town.

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673. AFFIDAVIT FOR FIXING RESERVED BIDDING.

1. I have carefully inspected and valued Lot Number ——— in the ——— Concession of the Township of ——— in the County of ———, being the premises ordered to be sold in this cause, and proposed to be sold in ——— lots numbered one, &c., respectively in the draft advertisement of sale herein now shewn to me and marked A.

2. Lot numbered one in the said draft advertisement is, in my judgment, worth the sum of $——— or thereabouts, (though so much may not be obtained, as it requires considerable expenditure in the repair of, &c., *state defects,*) and I say that in my opinion the reserved bidding on said lot number one should be fixed at $———. (*Go through all the lots in the same way.*)

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674. ADVERTISEMENT OF SALE OF LANDS BY THE COURT.

(*Rule 721.*)

JUDICIAL SALE OF PROPERTY IN THE TOWN OF ———.

Pursuant to an order of the High Court of Justice, made in the action of A.B. v. C.D., there will be offered for Sale, with the

approbation of ———, the Local Master at ———, by ———, auctioneer, at the ——— Hotel, in the Town of ———, at ——— o'clock in the ——— noon, on ——— day, the ——— day of ——— 19—. All and singular that certain parcel or tract of land and premises, situate, lying, and being in the Town of ———, and described as follows:—(*Here describe lands*).

The lands lie (*describe situation*) *e.g.*, five miles from ——— a good market town and ——— miles from the railway station at ——— and ——— miles from the ——— church (*and any other facts which show the desirability of the property*).

On the lands are said to be erected a frame dwelling house, a store house, and an engine house.

The property will be offered for sale subject to a reserved bid. The purchaser shall pay ten per cent. of his purchase money at the time of sale to the vendors or their solicitors, and the balance in 30 days thereafter into Court to the credit of this action, without interest.

The Vendors will only be required to furnish a Registrar's Abstract of Title, and to produce such deeds, copies thereof, or evidences of title, as are in their possession. In all other respects the terms and conditions of sale will be the standing conditions of this Court.

Further particulars may be had from Messrs. X. & Y., Solicitors, Number ——— Street, Toronto, or from ———.

Local Master at ———.

Dated at ———, this ——— day of ———, 19—.

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675. AFFIDAVIT PROVING ADVERTISING AND BILL POSTING.

1. That in pursuance of the direction of the Master in Ordinary of this Court (*or* of the Local Master of the Supreme Court of Judicature at ———,) who settled the advertisement and particulars and conditions of sale for the sale of the lands mentioned or referred to in the judgment made in this action, I caused such advertisement to be published in the (*naming the newspaper or newspapers*) once in each week for the four weeks immediately preceding the said sale (*or as the case may be*).

2. That in pursuance of the said direction I caused bills of the said sale to be published in different parts of the Township (Town *or* City of ———) and the adjacent country or villages (*or as the case may be*).

3. That 25 of the said bills or posters were published and distributed for four weeks immediately preceding the said sale in hotels adjacent to the said land, and 50 others of the said bills or posters were published and posted in conspicuous public places in different parts of the said Township (Town *or* City) of ———, and the adjacent country and villages (*or as the case may be*) and

that 25 others of the said bills or posters were distributed to the auctioneer and the solicitors of the various parties interested in this action.

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676. CONDITIONS OF SALE.

Standing Conditions of the Court. (*Rule 723.*)

(*Short Style of Cause.*)

1. No person shall advance less than $10 at any bidding under $500, nor less than $20 at any bidding over $500, and no person shall retract his bidding.

2. The highest bidder shall be the purchaser; and if any dispute arise as to the last or highest bidder, the property shall be put up at a former bidding.

3. The parties to the action, with the exception of the vendor, (and, *naming any parties, trustees, agents, or others, in a fiduciary situation*) shall be at liberty to bid.

4. The purchaser shall, at the time of sale, pay down a deposit, in proportion of $10 for every $100 of the purchase money, to the vendor, or his solicitor and shall pay the remainder of the purchase money, on the ——— day of ——— next; and upon such payment, the purchaser shall be entitled to the conveyance and to be let into possession; the purchaser at the time of sale to sign an agreement for the completion of the purchase.

5. The purchaser shall have the conveyance prepared at his own expense, and tender the same for execution.

6. If the purchaser fails to comply with the conditions aforesaid, or any of them, the deposit and all other payments made thereon shall be forfeited, and the premises may be resold; and the deficiency, if any, by such re-sale, together with all charges attending the same, or occasioned by the defaulter, are to be made good by the defaulter.

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677. AFFIDAVIT OF AUCTIONEER AS TO RESULT OF SALE.

(*Rule 730.*)

I, E.F., of ———, in the County of ———, the auctioneer appointed by the Master of the Supreme Court of Judicature at ———, to sell the lands and premises comprised in the particulars hereinafter referred to, make oath and say as follows:—

1. I did, according to the appointment of the said Master, at the time and place, in the lots and subject to the conditions specified in the particulars and conditions of sale hereunto annexed, marked respectively A.B.C., etc., offer for sale by public auction the lands and premises described in the said particulars and the results of such sales are as appear from the several signed contracts appearing at the end of the said conditions of sale, marked respectively B.C., etc.

2. The sums set forth in the said several contracts are the highest sums bid for the respective lots therein respectively mentioned, and ——— of ———, and ——— of ———, being the persons whose names are respectively subscribed to the said several contracts, were respectively declared by me to be the highest bidders for and became the purchasers of the lots respectively mentioned in the said several contracts, at the prices or sums of $——— and $——— respectively, being the prices or sums in the said several contracts respectively mentioned.

3. The several lots numbered respectively 1, 2, etc., in the said particulars were not sold, no person having bid a sum higher than or equal to the reserved biddings fixed for the same respectively by the said Master. The highest sums bid for such last-mentioned lots were those appearing opposite the numbers of such lots respectively in the second column of the paper now shown to me marked E.

4. No person bid any sum whatever for the lots numbered 4 and 5, respectively, in the said particulars.

5. The said sale was conducted by me in a fair, open and proper manner, and according to the best of my skill and judgment.

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678. TENDER TO PURCHASE LANDS

Offered under Judicial Sale.

I hereby offer ——— dollars for the lands offered for sale herein at ——— on the ——— day of ———, 19—, to wit: (*here describe the lands.*)

Dated at ——— this ——— day of ———, 19—.

Signed in the presence of

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679. REPORT ON SALE.

(*Rule 731.*)

Pursuant to the judgment (*or* order) of this Honourable Court bearing date the ——— day of ———, 19—, and made in this cause I have, under the Rules of the Supreme Court of Judicature, in the presence of (*or* after notice to) all parties concerned, settled an advertisement and particulars and conditions of sale for the sale of the lands mentioned or referred to in the said judgment (*or* order), and such advertisement having according to my directions been published in the (*naming the newspaper or newspapers*) once in each week for the ——— weeks immediately preceding the said sale (*or as the case may be*), and bills of the said sale having been also, as directed by me, published in different parts of the Township (Town *or* City) of ——— and the adjacent county and villages (*or as the case may be*), the said lands were offered for sale by public auction, according to my appointment, on the ——— day of ———, 19—, by me (*or* by Mr. ——— of ———, appointed by me for that purpose, auctioneer), and such sale was conducted

in a fair, open and proper manner, when ——— of ——— was declared the highest bidder for and became the purchaser of the same at the price or sum of $——— payable as follows: (*set out shortly the conditions of sale as to payment of the purchase money.*)

All which having been proved to my satisfaction by proper and sufficient evidence I humbly certify to this Honourable Court.

Dated the ——— day of ———, 19—.

Master at ———.

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680. NOTICE OF MOTION

To Compel Payment of Purchase Money.

That A.B., who by the report of the Master at ——— dated ——— was declared to be the purchaser of the land and premises directed to be sold by the judgment herein dated ———, may be ordered on or before the ——— day of ———, 19—, to pay into Court to the credit of this cause the sum of $———, being the purchase money for the said premises;

Or, being the balance of the purchase money for the said premises, after deducting $——— paid by him as a deposit.

If so; together with interest thereon at ——— per cent. per annum from the ——— day of ———, 19—, (*as in the conditions or contract of sale*) until payment.

And that the said A.B. may be ordered to pay to the applicant his costs of this application.

Add, if desired: And that in default of such payment being made by the said A.B. within the time aforesaid, the premises whereof he has been declared the purchaser as aforesaid may be re-sold pursuant to the conditions of sale under which he purchased the same; and that the said A.B. may be ordered to make good any deficiency in the price which may be obtained upon such re-sale and all costs and expenses occasioned by his default, and that in case the said premises cannot be re-sold the said A.B. may be held to his purchase.

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681. ORDER FOR RE-SALE ON DEFAULT

And Payment of Deficiency.

1. It is ordered that the said E.F. do within ——— days after the service hereof pay into Court to the credit of this cause, subject to further order, the sum of ——— dollars, being the price at which the said A.B. was declared the purchaser of the said lands, less ten per cent. thereof paid by the said A.B. at date of sale (*or as the case may be*).

2. And in default of payment by the said E.F. within the time aforesaid, it is ordered that the said lands and premises be re-sold with the approbation of the Master of the Supreme Court of Judicature at ———.

3. And in case no purchaser shall be found for the same on such re-sale, or in case the same shall be re-sold for less than the said sum of ——— dollars, it is ordered that the said E.F. do within ——— days after service upon him of the certificate of the result of such re-sale pay the said sum of ——— dollars in case the same shall not be re-sold, or the difference between the said sum of ——— dollars and the amount for which the said lands shall be so re-sold, in case the same shall be re-sold for less than the said sum of ——— dollars, into Court to the credit of this cause, subject to further order.

4. And it is further ordered that the said E.F do pay to the ——— all costs and expenses occasioned by such default as aforesaid and the costs of this application forthwith after taxation thereof.

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682. ACCOUNTANT'S CERTIFICATE OF PAYMENT OF PURCHASE MONEY.

I certify that (A.B.) the purchaser of the lands (*or*, of parcel number one of the lands) sold in this cause has paid the full amount of his purchase money into Court to the credit of this cause.

Dated, &c.

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683. NOTICE OF MOTION

To Dispense with Payment of Purchase Money into Court.

On behalf of A.B. of the Town of ——— in the County of ———, the purchaser of the lands sold in this cause at the sale held herein on the ——— day of ———, 19—, for an order dispensing with payment into Court of the amount of his purchase money and the interest accrued thereon (*or* of $——— part of his purchase money and the interest accrued thereon since the ——— day of ———, 19—.)

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684. CONSENT TO ORDER DISPENSING WITH PAYMENT OF PURCHASE MONEY INTO COURT.

(*Short Style of Cause.*)

I, C.D., of ———, the plaintiff in this action, do acknowledge to have received this day from A.B., the purchaser of the lands (*or* of parcel number one of the lands) sold in this action on the ——— day of ———, 19—, the sum of $———, being the amount of his purchase money for the said lands with interest thereon to date, and I consent to an order being made dispensing with payment of the said purchase money into Court.

Dated, &c.

Witness.

685. ORDER ON FURTHER DIRECTIONS

Confirming Report and Dispensing with Payment in; also Vesting Lands.

This action coming on to be heard this day before this Court on further directions and on the question of costs, in presence of counsel for the defendants, no one appearing on behalf of the creditors named in the report herein of the Local Master at ——— as being the only creditors who have proved their claims, though duly served with notice of this motion, as by affidavits filed appears, upon hearing read the judgment herein dated the ——— day of ———, 19—, the report on sale herein dated the ——— day of ———, 19—, and the order dated the ——— day of ———, 19—, confirming the same, the final report herein of the said Master dated the ——— day of ———, 19—, the notice of motion herein and the affidavits and admissions of service thereof, the consent of the plaintiff's solicitor duly verified by affidavit filed, and the pleadings and proceedings herein, and it appearing that the amount due the defendant E.F. under his mortgage referred to in the report of the said Master exceeds the amount for which he purchased the lands in question:

1. This Court doth order that the said final report herein dated the ——— day of ———, 19—, be and the same is hereby confirmed forthwith after the filing thereof, and that payment into Court by the defendant E.F., the purchaser of the lands and premises herein, of the amount of his purchase money be and the same is hereby dispensed with.

2. And this Court doth further order that the lands in question herein, namely, all and singular those certain lands and premises in the Town of ——— being composed of (*describe the lands*) be and the same are hereby vested in the defendant E.F. of the Town of ———, Esquire, his heirs and assigns, forever, for all the estate, right, title, interest and equity of redemption of the plaintiff and of the defendant C.D. therein and thereto.

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686. NOTICE DEMANDING POSSESSION.

Take notice that the purchaser A.B. has paid into Court his purchase money pursuant to the conditions of sale, and he hereby requires you to deliver to him possession of the lands purchased by him in this cause on the ——— day of ——— next; and take notice that he will on that day attend on the premises at such hour as you may appoint to receive possession of the said lands, and in default of possession being on that day delivered to him he will make application to the Court to compel you to deliver possession thereof.

687. NOTICE OF DELIVERY OF POSSESSION

By Vendor to Purchaser.

(Short Style of Cause.)

Take notice that the vendor will on the ——— day of ——— next at ——— o'clock in the forenoon deliver possession to A.B. or to whom he may appoint of the lands purchased by him in this cause, and he is hereby notified to attend on the premises at the above-named time to receive possession.

688. DEMAND OF POSSESSION

After Sale by the Court.

We hereby demand and require of you to quit and deliver to A.B. of ——— in the County of ———, farmer, on or before the ——— day of ——— next, possession of the lands in question in this cause, being Lot No. ——— in ——— Concession of the Township of ——— in the County of ———, of which you are now in occupation, the said A.B. having become the purchaser thereof at the sale had in this cause, and having duly complied with the conditions of sale, and being now entitled to receive possession of the same. And take notice that in case you shall fail to quit and deliver up possession of the said lands as hereby required an application will be made to the Court to compel you to quit and deliver up possession of the said premises, and to pay the costs of this demand and occasioned by your default.

689. NOTICE OF MOTION

For Delivery of Possession of Lands Sold by Court.

On behalf of ——— (*the vendor or the purchaser*) for an order directing the defendant D.F. to deliver up possession of the lands and premises in question in this action within such time as the Court shall direct, and also to pay to the applicant his costs of and incidental to this application, including the costs of the demand of possession served upon the said defendant D.F.

690. NOTICE OF MOTION

For Compensation by Purchaser of Lands Sold by Court.

On behalf of ——— the purchaser of ———, for an order authorizing him to retain out of his purchase money (*or* for payment out of Court *or* by the plaintiff to the said A.B. of) the sum of $——— for compensation for the loss sustained by the said A.B. by reason of having paid $——— arrears of taxes which accrued on said lands prior to the ——— day of ———, 19—, and which the said A.B. was compelled to pay (*or as the case may be.*)

691. ORDER FOR COMPENSATION.

1. It is ordered that it be referred to the Master of this Court to fix the amount of the abatement of purchase money to be allowed to the said ——— the purchaser of parcel No. ——— sold at the sale had in this cause to compensate him for the loss he has sustained in not obtaining possession of said parcel in accordance with the terms and conditions of sale.

692. DEMAND OF ABSTRACT OF TITLE.

(*Style of Cause.*)

I hereby require you forthwith to furnish me with an abstract of title to ———, being the lands purchased by ———, at the sale in this cause, on the ——— day of ———, 19—.

693. ABSTRACT OF TITLE.

(*Short Style of Cause.*)

Abstract of title of (*vendors*) to lot ———, being the parcel of land purchased by ———, at the sale in this cause, on the ——— day of ———, &c.

Registration No. of Instrument	Date.	
		Grant from the Crown to ——— of ———, his heirs and assigns all and singular, lot ———, in the County of ———. To hold the same to the said ——— his heirs and assigns forever. Saving and reserving mines and minerals. Proviso: for performance of settlement duties by said ———. Will of ——— by which he gave and devised unto ———. Executed by testator, and attested by ——— and ———. Proved ——— day of ——— in the Surrogate Court of the County of ———, Registered——— day of ———.

694. NOTICE TO BE INDORSED ON ABSTRACT.

Take notice, that if you have any objection to make to the sufficiency of the within abstract, you must serve the same in writing within ——— days from the service hereof upon you, and if no such objection is served within the time above-mentioned, you will be deemed to have accepted the said abstract as sufficient.

695. OBJECTIONS TO ABSTRACT.

(*Short Style of Cause.*)

Objections to the sufficiency of the abstract of title to lot ———, in the ——— concession of ———, purchased by ——— at the sale in this cause.

1. It is not shewn by the abstract that ——— ever acquired title to the said lot.

2. It does not appear by the abstract that the will of ——— was sufficiently executed to pass real estate in this Province.

3. In the Registry Office, it appears that ——— executed a mortgage to one ———, dated ——— which mortgage appears afterwards to have been assigned by deed to one ———. This mortgage and assignment do not appear upon the abstract.

4. It does not appear by the abstract that ——— died intestate as to the land in question.

696. NOTICE TO BE INDORSED ON OBJECTIONS.

Take notice, that you are hereby required to answer the within objections within ——— days from the service thereof. And take notice, that in case you make default in answering the said objections within the said time, or in case the answers (if any) made by you shall be unsatisfactory, I shall apply to the Master of this Court at ——— for a warrant to consider the abstract delivered to me as solicitor for ——— herein.

697. NOTICE TO VERIFY ABSTRACT.

(*Short Style of Cause.*)

Take notice, that I hereby require you forthwith to appoint a time and place for the verification of the abstract of title delivered to me herein as solicitor for ———, the purchaser of lot ——— in the ——— concession of ———, at the sale in this cause.

698. NOTICE TO PURCHASER

For Requisitions as to Title.

(*Short Style of Cause.*)

Take notice, that if you have any objections or requisitions to make respecting the title to lot ——— in the ——— concession of ———purchased by ——— in this cause, you are hereby required to deliver the same within ——— days from the service hereof upon you. And take notice that if no such objections or requisition be delivered within the time above limited, the said ——— will be presumed to have accepted the title to the said lands.

699. OBJECTIONS AND REQUISITIONS TO TITLE.

(*Short Style of Cause.*)

Objections and requisitions of ——— to the title to lot ——— in the ——— concession of ——— purchased by him in this cause.

1. Evidence required to show the death and intestacy of ———.

2. Evidence required to shew that ——— was the eldest son and heir at law of ———.

Dated, &c.

700. NOTICE TO BE INDORSED.

Take notice, that you are hereby required to answer the within objections and requisitions within ——— days from the service thereof; and take notice, that in case you make default in answering the said objections and requisitions within the said time, or in case the answers (if any) made by you shall be unsatisfactory, I shall apply to the Master of this Court at ——— for a warrant to consider the within objections and requisitions and your answers, if any, thereto.

701. ORDER VESTING LANDS IN PURCHASER.

Upon the application of ——— of the ——— of ——— in the County of ———, farmer, the purchaser at the sale herein of the lands hereinafter described, upon reading ———, and upon hearing the solicitor for ———:

1. It is ordered that the following lands and premises, namely, all and singular (*describe lands*), be and the same are hereby vested in the said ———, his heirs and assigns, for all the estate, right, title and interest of the above named ——— therein and thereto.

702. CERTIFICATE OF VESTING ORDER.

For Registration.

IN THE HIGH COURT OF JUSTICE.

This is to certify that by a Vesting Order bearing date the ——— day of ——— 19—, and made by the said Court in a certain action pending therein, wherein A.B. is plaintiff and C.D. is defendant, upon the application of the plaintiff (*or* the defendant), it was ordered that the lands and premises described in the pleadings and being all and singular those certain parcels or tracts of land and premises situate, lying and being (*describe lands*) should be and the same were thereby vested in the said plaintiff (*or* defendant), his heirs and assigns forever, for all the estate, right, title and interest of the above-named defendant (*or* plaintiff) therein and thereto.

And at the request of the plaintiff (*or* defendant) this certificate is given for the purpose of registration pursuant to the Statute in that behalf.

Given under my hand and the seal of the said High Court, this ——— day of ——— A.D. 19—.

Local Registrar of the High Court of Justice at ———.
(*Or as the case may be.*)

[SEAL.]

703. TABLE FOR ASCERTAINING THE VALUE OF DOWER.

Giving the Value, an Annuity of $1 According to the Carlisle Table of Mortality.

Age.	5 per cent.	6 per cent.	7 per cent.	Age.	5 per cent.	6 per cent.	7 per cent.
1	13.995	12.078	10.605	51	11.410	10.422	9.573
2	14.983	12.925	11.342	52	11.154	10.208	9.392
3	15.824	13.652	11.978	53	10.892	9.988	9.205
4	16.271	14.042	12.322	54	10.624	9.761	9.011
5	16.590	14.325	12.574	55	10.347	9.524	8.807
6	16.735	14.460	12.698	56	10.063	9.280	8.595
7	16.790	14.518	12.756	57	9.771	9.027	8.375
8	16.786	14.526	12.770	58	9.478	8.772	8.153
9	16.742	14.500	12.754	59	9.199	8.529	7.940
10	16.669	14.448	12.717	60	8.940	8.304	7.743
11	16.581	14.384	12.669	61	8.712	8.108	7.572
12	16.494	14.321	12.621	62	8.487	7.913	7.403
13	16.406	14.257	12.572	63	8.258	7.714	7.229
14	16.316	14.191	12.522	64	8.016	7.502	7.042
15	16.227	14.126	12.473	65	7.765	7.281	6.847
16	16.144	14.067	12.429	66	7.503	7.049	6.641
17	16.066	14.012	12.389	67	7.227	6.803	6.421
18	15.987	13.956	12.348	68	6.941	6.546	6.189
19	15.904	13.897	12.305	69	6.643	6.277	5.945
20	15.817	13.835	12.259	70	6.336	5.988	5.690
21	15.726	13.769	12.210	71	6.015	5.704	5.420
22	15.628	13.697	12.156	72	5.711	5.424	5.162
23	15.525	13.621	12.098	73	5.435	5.170	4.927
24	15.417	13.541	12.037	74	5.190	4.944	4.719
25	15.303	13.456	11.972	75	4.989	4.760	4.549
26	15.187	13,368	11.904	76	4.792	4.579	4.382
27	15.065	13.275	11.832	77	4.609	4.410	4.227
28	14.942	13.182	11.759	78	4.422	4.238	4.067
29	14.827	13.096	11.693	79	4.210	4.040	3.883
30	14.723	13.020	11.636	80	4.015	3.858	3.713
31	14.617	12.942	11.578	81	3.799	3.656	3.523
32	14.506	12.860	11.516	82	3.606	3.474	3.352
33	14.387	12.771	11.448	83	3.406	3.286	3.174
34	14.260	12.675	11.374	84	3.211	3.102	2.999
35	14.127	12.573	11.295	85	3.009	2.909	2.815
36	13.987	12.465	11.211	86	2.830	2.739	2.652
37	13.843	12.354	11.124	87	2.685	2.599	2.519
38	13.695	12.239	11.033	88	2.597	2.515	2.439
39	13.542	12.120	10.939	89	2.495	2.417	2.344
40	13.390	12.002	10.845	90	2.339	2.266	2.198
41	13.245	11.890	10.757	91	2.321	2.248	2.180
42	13.101	11.779	10.671	92	2.412	2.337	2.266
43	12.957	11.668	10.585	93	2.518	2.440	2.367
44	12.806	11.551	10.494	94	2.569	2.492	2.419
45	12.648	11.428	10.397	95	2.596	2.522	2.451
46	12.480	11.296	10.292	96	2.555	2.486	2.420
47	12.301	11.154	10.178	97	2.428	2.368	2.309
48	12.107	10.998	10.052	98	2.278	2.227	2.177
49	11.892	10.823	9.908	99	2.045	2.004	1.964
50	11.660	10.631	9.749	100	1.624	1.596	1.569

Note.—To ascertain the dower in lands, calculate the interest on the value of the property at the legal rate of interest; this gives the income of the property for one year; the widow being entitled to one-third, multiply this by the amount opposite the widow's age in interest colum, and the result will be the value of the dower.

CHAPTER XXVII.

PAYMENT INTO AND OUT OF COURT.

(*Rules 405-429.*)

704. PRÆCIPE FOR CHEQUE.

IN THE COURT OF APPEAL

or

IN THE HIGH COURT OF JUSTICE.

(*Style of Cause.*)

Required the following cheques under order dated ———.

Date ———.

Folio ———.

Signature ———.

Solicitor for Applicant.

705. PRÆCIPE FOR DIRECTION TO THE BANK.

(*Rule 407.*)

IN THE COURT OF APPEAL

or

IN THE HIGH COURT OF JUSTICE.

(*Style of Cause.*)

Required a direction for the Bank to receive from ——— $——— under order dated the ——— day of ———, 19— (*or as the case may be.*)

Date ———.

Folio ———.

Solicitor for defendant
(*or as the case may be.*)

706. DIRECTION TO BANK.

To the Manager of the ——— Bank at ———.

SUPREME COURT OF JUDICATURE OF ONTARIO.

HIGH COURT OF JUSTICE.

Receive from ——— 100 Dollars, and place the same to the credit of this account under order of the High Court of Justice, dated ——— 19—.

$———

Folio ———

(Toronto) ———, 19—.

707. CERTIFICATE OF PAYMENT IN.

The ——— Bank.
No. ———
$———. (Toronto) ———, 19—.
This is to certify that ——— has this day paid into this Bank to the credit of this account in the High Court of Justice ——— 100 Dollars.
Order ———.
Folio ———.

708. RECEIPT FOR DEPOSITOR.

The ——— Bank.
No. ———.
$———. (Toronto) ———, 19—.
This is to certify that ——— has this day paid into this Bank to the credit of this account in the High Court of Justice ——— 100 Dollars.
Order ———.

709. DIRECTION TO BANK.

Mortgage Payment.
(No law stamp required.)

To the Manager of the ——— Bank at ———.

SUPREME COURT OF JUDICATURE OF ONTARIO.
HIGH COURT OF JUSTICE.

Receive from A.B. the sum of ——— Dollars and place the same to the credit of this account under order of the High Court of Justice, dated ———, 19—.
$——— Folio ———.
(Toronto) ———, 19—.

710. PRÆCIPE FOR CERTIFICATE.

IN THE COURT OF APPEAL
or
IN THE HIGH COURT OF JUSTICE.
(Style of Cause.)

Required a certificate that ———.
Date ———.
Folio ———.

711. ACCOUNTANT'S CERTIFICATE.

Accountant's Office, Supreme Court of Ontario, Toronto.

IN THE COURT OF APPEAL

or

IN THE HIGH COURT OF JUSTICE.

(*Style of Cause.*)

I certify that there is in Court to the credit of this account ——— dollars ($———), (being the full amount of the purchase money paid in by the purchaser C.D. pursuant to report of Master at ——— dated ———) (*or as the case may be*).

Accountant.

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712. DISCHARGE OF MORTGAGE

By Accountant.

Province of Ontario,
To Wit:

Dominion of Canada.

To the Registrar of the ——— of ———.

I, the Accountant of the Supreme Court of Judicature for Ontario, do certify that ——— hath satisfied all money due on or to grow due on a certain Mortgage made by ——— the said ——— to me which Mortgage bears date the ——— day of ———, A.D and was registered in the Registry Office for the ——— ——— on the ——— day of ———, A.D. at ——— o'clock in the ——— in Liber for the ——— as No. ———.

That such Mortgage has not been assigned.

And that the Accountant is the person entitled by law to receive the money and that such Mortgage is therefore discharged.

Witness my hand and Corporate Seal this ——— day of ———, A.D. 1901.

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713. NOTICE OF PAYMENT INTO COURT.

In Satisfaction of Plaintiff's Claim. (*Rule 422.*)

(*Style of Cause.*)

Take notice that the defendant has paid into Court $——— in satisfaction of the plaintiff's claim (*or* the plaintiff's claim, for etc.)

---

714. NOTICE OF ACCEPTANCE

Of Sum Paid Into Court. (*Rule 423.*)

(*Style of Cause.*)

Take notice, that the plaintiff accepts the sum of $——— paid by you into Court in satisfaction of his claim herein (*or* of his claim for, &c.)

715. AFFIDAVIT FOR STOP ORDER.

(*Rule 82.*)

1. On the ——— day of ———, 19—, I recovered a judgment in the ——— Court against C.D., the above-named ———, for the sum of $——— for debt, and the sum of $——— for costs of action, and there is now due and unpaid on the said judgment, for debt, interest and costs, the sum of $——— (*or if the applicant is the assignee of the moneys set forth the assignment*).

2. I am desirous that the moneys now standing in Court to the credit of the said C.D. in this cause shall not be paid out or dealt with except upon notice to me.

Sworn, &c.

Note.—Produce also certificate of Accountant of the amount in Court.

716. STOP ORDER.

(*Rule 82.*)

Upon the application of ———, upon reading the affidavit of ——— filed, and upon hearing the solicitor for the applicant, and the applicant by his solicitor submitting to be bound by the provisions of Rule 82 of the Consolidated Rules of the Supreme Court of Judicature:

1. It is ordered that all moneys, stock or securities now standing or hereafter to be paid into Court to the credit of this cause (*or* matter) to which the (*naming the party*) is entitled (*or* held by the Accountant (*or other officer*) for the (*naming the party*) or which may be directed to be paid to him, and any interest to accrue due thereon, be not paid out or otherwise dealt with or disposed of without notice to the said applicant.

717. NOTICE OF MOTION TO DISCHARGE STOP ORDER.

On behalf of C.D. named in the order made herein dated the ——— day of ———, 19—, (*or* C.D. of *residence and addition*) that the (said) order dated the ——— day of ———, 19—, whereby it was ordered (*or* that so much of the order dated the ——— day of ———, 19—, as directs that (*recite concisely the order or restraining clause*) may be discharged. *If so*: with costs to be paid by the said A.B. to the said C.D.

718. ORDER DISCHARGING STOP ORDER.

1. It is ordered that the order of ——— dated ——— whereby it was ordered that all moneys, stock or securities, to the credit of this cause (*or* matter) to which the (*naming the party*) is entitled (*or as the case may be*), and any interest to accrue due thereon should not be paid out or otherwise dealt with or disposed of without notice to (*the applicant*) be and the same is hereby discharged.

719. AFFIDAVIT FOR PAYMENT OUT

On Attaining Majority.

1. I am the mother of the above-named defendant C.D. (*or as may be, showing means of knowledge of deponent.*)

2. The above-named defendant C.D. was born on the ——— day ———, 18—, and is now of the full age of 21 years.

Note.—The affidavit and order for payment in must show the date of birth of the infant, and provide for payment out on majority. Otherwise no costs will be allowed for the order for payment out rendered necessary by omitting these particulars.

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720. AFFIDAVIT FOR PAYMENT OUT

That Person Entitled is Alive.

1. A.B., named in the order made in this action (*or* matter) dated the ——— day of ———, 19—, (*order under which periodical payment is made,* or, the above-named A.B.,) was alive on the ——— day of ———, 19—, as I know from (*state means of knowledge as*: having seen him on the last mentioned day at ———.)

2. To the best of my knowledge, information and belief, the said A.B. is now alive.

---

721. AFFIDAVIT PROVING MAINTENANCE

Of Infant.

I, A.B., of the ——— of ——— in the County of ———, ——— make oath and say:

1. I am the (Guardian) of the above-named infant.

2. The said infant is still alive and being cared for by me.

3. All moneys heretofore granted me have been properly expended and the money now applied for is required for the support and maintenance of the said infant.

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722. AFFIDAVIT PROVING MAINTENANCE

Of Lunatic.

I, A.B., of the ——— of ——— in the County of ———, ——— make oath and say:

1. I am the (Committee) of the above-named lunatic.

2. The said lunatic is still alive and being cared for by me.

3. The said lunatic is still of unsound mind and incapable of caring for himself.

4. All moneys heretofore granted me have been properly expended and the money now applied for is required for the support and maintenance of the said lunatic.

723. AFFIDAVIT FOR PAYMENT

To Personal Representatives of Deceased.

1. I was well acquainted with A.B. deceased, the person named in the order dated, &c., and late of, &c., (*follow description in Letters Probate or Letters of Administration.*)

2. Letters Probate of the will (*or* Letters of Administration of the effects) of the said A.B. were granted by the Surrogate Court of ——— the County of ——— (*or as the case may be*) on the ——— day of ———, 19—, to C.D. and C.F. of ——— which Letters Probate (*or* of Administration) are now produced and shewn to me marked as Exhibit "A."

3. The said A.B. is also the person named in the official certificate of death now produced and shown to me marked as Exhibit "B."

724. AFFIDAVIT FOR PAYMENT

To Survivors of Personal Representatives, Named in Oringinal Order.

1. I was well acquainted with A.B. deceased, the person named in the order dated the ——— day of ———, 19—, as one of the legal representatives of C.D. deceased.

2. The said A.B. is also the person named in the official certificate of death now produced and shown to me marked as Exhibit "A."

725. AFFIDAVIT FOR PAYMENT

To Survivors of Personal Representatives When Not Named in Original Order.

1. I was well acquainted with A.B., deceased and he was one of the persons to whom the Letters Probate of the will (*or* Letters of Administration of the effects) of C.D. deceased, the person named in the order dated the ——— day of ———, were granted by the Surrogate Court for the County of ——— (*as the case may be*), on the ——— day of ———, jointly with E.F. and G.H. which Letters Probate (*or* Letters of Administration), are now produced and shewn to me marked Exhibit "A."

2. The said A.B. is also the person named in the official certificate of death, now produced and shown to me marked as Exhibit "B."

726. ADVERTISEMENT ON APPLICATION

For Distribution of Fund in Court.

To A.B. or in the event of her death to her legal representative.

Take notice that an application has been made to the High Court of Justice for the Province of Ontario, Canada, in the matter of the estate of C.D. late of the Township of ——— in the

County of ——— in the said Province, for an order (for the distribution of the legacy under the will of the said C.D. in favour of you the said A.B. among the known next of kin of the said C.D. *or* for payment out to the legal heirs of you the said A.B. of the money in Court to your credit.)

You are hereby required to notify the undersigned Clerk in Chambers, Osgoode Hall, Toronto, Canada, of your whereabouts on or before the ——— day of ———, 19—, and in default of such notice the said Clerk in Chambers will proceed to distribute the said money.

Dated at Toronto, this ——— day of ———, 19—.

CHAPTER XXVIII.

INFANTS.

I. Guardianship.

727. NOTICE OF MOTION

To Appoint Guardian Where an Action is Pending.

On behalf of the plaintiff (*or*, defendant, *or*, above named) A.B. an infant, by C.D. of ——— his next friend.

That the said C.D. the maternal uncle of the said infant (*or as the case may be*) or some other proper person, may be appointed the guardian of the person (*or* person and estate *or* estate) of the said A.B. during his minority, or until further order.

728. AFFIDAVIT IN SUPPORT.

We, ——— of and ——— of, &c., severally make oath and say as follows:—

And first I, the said ——— for myself say as follows:

1. I am the person proposed to be appointed the guardian of the above named infant A.B.

2. The said A.B. is now of the age of ——— years, and upwards.

3. (*Show nature and amount of infant's property.*)

4. (*Show what relatives the infant has.*)

5. (*Show where the infant is now residing, and under whose care.*)

6. I am willing to act as the guardian of the person and estate of the said A.B. during his minority, in case this Honourable Court shall think fit to appoint me to that office.

7. And I, the said ——— for myself, say as follows: I know and have for ——— years last past been well acquainted with the deponent ———. In my judgment and opinion the said ——— is a fit and proper person to be appointed the guardian of the person and estate of the said infant.

729. CONSENT OF GUARDIAN TO ACT.

(*Short Style of Cause.*)

I, the undersigned ——— of (*residence and addition*), do hereby consent to accept the office of guardian of the person and estate (*or as may be*) of the above-named infant A.B. (*or as may be*) in case the Court shall think fit to appoint me to that office. Dated this ——— day of ———, 19—.

Signed in the presence of ———.

730. NOTICE OF MOTION

To Assign Guardian ad litem.

On behalf of the defendant A.B. an infant, by C.D. of (*residence and addition*) his next friend that he may be assigned his guardian, by whom he may defend this action.

731. AFFIDAVIT IN SUPPORT.

1. This action has been brought as I am informed (*by my solicitor*) and believe claiming ——— (*according to the fact*) against the defendant A.B. who is an infant under the age of 21 years.

2. I have been requested to apply to be appointed guardian *ad litem* of the defendant A.B. by (*stating the name and showing relationship or other interest in the infant*).

3. I have, and to the best of my knowledge, information and belief the said ——— (*the person, if other than the infant at whose request the applicant has made the application*) has no interest whatever in the matter in question in this action adverse to the said infant.

732. CONSENT TO ACT AS GUARDIAN

By Person Other Than Official Guardian.

(*Style of Cause.*)

I, A.B. of (*residence and addition*) consent to be appointed (*if so;* and to act in the place of L.M.) as guardian ad litem of C.D. a defendant in this action, *or*, who has been served with notice of the judgment dated, &c., in this action, *or*, of C.D. who has been served with the petition presented by (*or* order taken out on behalf of) E.F. in this action (*or* matter *or as may be.*)

Dated, &c.

733. ORDER APPOINTING GUARDIAN

Other than Official Guardian.

1. It is ordered that ———, one of the solicitors of this Court be and he is hereby appointed guardian to the said infant defendant, by whom he may appear and defend this action.

734. ORDER APPOINTING GUARDIAN

And for Representation of Absentees.

Upon motion made this day by counsel for the plaintiffs, in presence of the Official Guardian, no one appearing for the defendant C.L., a person of unsound mind not so found by inquisition, although duly notified as by notice of motion and affidavit of service thereof appears; upon hearing read the said notice of motion and the writ of summons issued herein and the affidavits of ——— and ——— filed, and upon hearing what was alleged; and it appearing that the defendants ———, are absent next of kin and heirs at law of ——— deceased in the writ of summons mentioned, and that their places of residence are unknown and cannot be ascertained and that the said defendants have the same interest in the matters in question in this action as the defendant C.L., and that the said parties will be sufficiently represented by the said C.L.:

1. It is ordered that the Official Guardian be and he is hereby appointed guardian ad litem of the said C.L. by whom the said C.L. may appear and defend the action.

2. It is ordered that the said C.L. as represented by the official guardian be and he is hereby authorized to defend this action on behalf of and for the benefit of the said defendants, or such of them as are alive and on behalf and for the benefit of the next of kin and heirs at law of such of them as are dead, and that the said defendants or such of them as are alive, and the next of kin and heirs at law of such of them as are dead, be bound by the proceedings and judgment in this action in the same manner as if they had appeared herein in person.

3. And it is further ordered that the costs of this application be costs in the cause.

---

735. AFFIDAVIT

For Appointment of New Guardian.

I, C.D. who, by an order, dated the ——— day of ———, 19—, was appointed the guardian ad litem of the defendant A.B. in this action, died on the ——— of ———, 19—, and no person has since been appointed to be such guardian.

2. The said A.B. is still under the age of twenty-one years.

3. I am the person proposed to be appointed guardian to the said A.B. and I have no interest whatever in the matters in question in this action adverse to the interest therein of the said A.B.

4. I have been requested to apply to be appointed guardian of the said defendant A.B. by (*stating name and shewing relationship of such person to the infant*) and I say that the said ——— has no interest whatever in the matter in question in this action adverse to the interest of the said defendant A.B. therein, to the best of my knowledge and belief.

736. **NOTICE OF MOTION**

For Removal of Guardian.

On behalf of (*the defendant*) A.B. an infant by C.D. of (*residence and addition*) as next friend for the purpose of this application, that the Official Guardian (*or* E.F. the guardian ad litem of the said A.B. appointed by an order dated the ——— of ———, 19—), may be removed and that the said C.D. or some other proper person may be assigned as guardian in lieu of the said ———.

---

737. **AFFIDAVIT IN SUPPORT.**

1. The said A.B. is (a defendant in this cause *or as the case may be.*)

2. The said A.B. is under the age of twenty-one years.

3. I have been instructed by the said A.B. (*or* by ———, the mother of the said A.B.) to apply to this Honourable Court to be assigned the guardian of the said A.B., by whom he may appear upon the said petition.

4. I have no interest in the matters (in the said petition referred to *or* in question in this action) adverse to the interest of the said A.B.; nor am I acting for any other person or persons having any interest adverse to that of the said A.B.

5. C.D. was by an order issued in this cause appointed guardian ad litem of the said A.B. (*or* the Official Guardian is at present the guardian ad litem of the said A.B.)

6. *State shortly the reasons why it is sought to remove the present guardian and appoint C.D.*

---

738. **NOTICE OF MOTION**

To Substitute a Next Friend.

On behalf of the infant plaintiff by A.B. his next friend, that he may be at liberty:

If before judgment: to amend the proceedings herein by inserting the name of C.D. of (*residence and addition*) as his next friend, in lieu of the said A.B. who is desirous to retire (*or* now deceased *or* who is incapacitated from acting *or* who by an order dated the ——— day of ———, 19—, has been removed.)

Or, if after judgment: to name C.D. of (*residence and addition*) as his next friend, in all future proceedings in this action, in lieu of the said A.B., who is desirous to retire *or* now deceased *or* &c.

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739. **NOTICE OF MOTION**

For Removal of a Next Friend.

On behalf of the infant plaintiff, (*or* a person of unsound mind not so found) by A.B. of (*residence and addition*) his next friend

for the purpose of this application, that C.D. the plaintiff's next friend in this action may be removed, and that the said A.B. or some other proper person, may be approved as, and deemed to be such next friend in lieu of the said C.D.

(*If before judgment*: that the proceedings herein may be amended by inserting the name of the said A.B., or other person as the plaintiff's next friend, instead of the name of the said C.D.

Or, if after judgment: that the said A.B. or other person, may be named in all future proceedings in this action, as the plaintiff's next friend, in lieu of the said C.D.

740. CONSENT.

(*Court and Style of Cause.*)

I, ——— of ———, consent to be added as sole plaintiff (*or* as co-plaintiff, *or* as next friend of the plaintiff A.B., an infant) in this action.

741. NOTICE OF MOTION

By a Co-plaintiff on Coming of Age to Strike Out His Name as Plaintiff.

On behalf of the plaintiff A.B. late an infant, but now of full age, that the name of the plaintiff A.B. may be struck out, and omitted in all future proceedings in this cause as a party co-plaintiff thereto.

742. ORDER APPOINTING TRUST COMPANY

As Guardian of Estate.

Upon the petition of the above named infants presented this day unto this Court by, &c., and (——— Trusts Corporation) appearing by their solicitor and consenting to act as such guardian until this Court shall make further order to the contrary.

1. This Court doth order that the said (——— Trusts Corporation) be and they are hereby appointed guardian of the estates of the said infants during their respective minorities unless this Court shall make other order to the contrary.

2. And this Court doth further order that the said Corporation) do forthwith effect a further and sufficient insurance upon the buildings erected upon the property of the said infants situated in the said City of ———, and that they do take steps forthwith to collect the rents in arrear in respect of the said lands and premises and do also from time to time collect the growing rents of the said lands and premises as the same shall fall due and payable.

3. And this Court doth further order that out of each of the respective shares of the infants ——— and ——— in the net rents and profits of the said real estate which shall come to the hands of

the said (Corporation) to which the said ——— and ——— shall from time to time be entitled, the said (Corporation) do from time to time until the said ——— and ——— shall respectively attain their majority or until this Court make further order to the contrary, which ever event may first happen, apply the sum of ——— per annum for their respective support, maintenance and education, and that the same be paid by the said (Corporation) out of the share of the said net rents and profits which shall come to the hands of the said (Corporation) to which the said infants may be entitled.

4. And this Court doth further order that the said (Corporation) as such guardians (subject to the supervision of the Master in Ordinary of this Court) do take such steps as may be necessary from time to time to let or relet the premises in question or any part thereof and also to enforce any forfeiture that may be incurred by reason of the breach of any condition contained in any lease now subsisting or hereafter created during the time they may continue as such guardian, and that they do take all steps necessary to keep said premises sufficiently insured and properly repaired.

5. And this Court doth further order that all leases and conveyances necessary to be executed in reference to the property hereby committed to the guardianship of the said (Corporation) be settled by the said Master as the said Master shall direct.

6. And this Court doth further order that the said (Corporation) do pass their accounts annually before the said Master (and that the said Master do tax to the official guardian ad litem his costs of and incidental to this application and of the proceedings thereunder from time to time and that the same be transferred out of the funds in Court to the credit of the said matters or any of them to which the said infants are entitled to the account of the Official Guardian ad litem) and that the said Master do allow to the said (Corporation) their commission for the management of the estate in question in the manner and to the same extent as commission is allowed to executors and receivers, and do tax to them their costs of and incidental to their dealings with the said estates and of passing their accounts from time to time.

7. And this Court doth further order that the said (Corporation) do from time to time pay into Court to the credit of this matter, subject to the order of this Court, the net balances which may be reported to be in their hands after making the payments hereinbefore directed.

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743. BOND BY GUARDIAN.

Know all men by these presents, that we, A.B. of (*residence and addition*), C.D. of, &c., and E.F., of, &c., are jointly and severally held and firmly bound unto ———, Accountant of the Supreme Court of Judicature for Ontario, in the penal sum of $——— of

lawful money of Canada, for which payment well and truly to be made to the said ——— his heirs, executors, administrators, successors in office, or assigns, we bind ourselves, and each of us binds himself, our and each of our heirs, executors and administrators respectively, firmly by these presents.

Sealed with our seals, and dated this ——— day of ———, in the year of our Lord, 19—.

Whereas by an order of the High Court of Justice for Ontario, made in a certain cause wherein ——— are plaintiffs, and ——— defendants (*or*, in the matter of, *set out short title of same*), dated the ——— day of ———, 19—, it was ordered that it should be referred to the Master of this Court (at ———), to appoint some fit and proper person to be guardian of the persons and estates of ——— (*naming the infants*). And whereas the said Master hath appointed the said above bounden A.B. as such guardian, and hath approved of the above bounden C.D. and E.F. as sureties for the said A.B. and hath also approved of the above written obligation, with the underwritten condition, as a proper security to be entered into by the said A.B., C.D. and E.F. pursuant to the said order and the Consolidated Rules of the Supreme Court of Judicature in that behalf, and in testimony of such approbation hath signed an allowance in the margin hereof.

Now the condition of this obligation is such, that if the above bounden A.B. do and shall according to the practice of the said Court as often as he shall be required, make a just and true account of the personal estate, and rents and profits of the real estate of the said ——— and ——— (*infants*) or either of them as now are, or shall hereafter come to the hands, custody or possession of the said A.B., and which he may receive out of or concerning the said estate, and shall carefully observe, perform and keep the orders and directions of the said Court touching or concerning the said ——— and ——— or either of them, their, his or her estate, and touching all such moneys as shall remain due upon the footing of his accounts duly taken by the said Master and shall be careful to see that the houses, buildings and structures of the said ——— and ——— and of each of them, be well and sufficiently reparied, and so kept and maintained, during the continuance of the said wardship and shall carefully preserve and keep all the deeds, evidences, and writings touching the lands and estates of them the said ——— and ——— and each of them, which now are, or shall hereafter come to his hands, custody, or possession and shall provide for the persons of the said ——— and ——— and for their safety, and shall not sell or alienate his interest in the said custody or wardship to any person or persons whomsoever, without the order of the said Court having been first obtained in that behalf, and shall not permit or suffer the said ——— or ——— or either of them during the said wardship, to marry without the consent of the Court, and shall in all things demean himself as a careful and faithful guardian of

the person and estates respectively of them the said ——— and ———, then the above obligation shall be void and of none effect, otherwise the same is to be and remain in full force and virtue.
Sealed, signed and delivered
in the presence of

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744. NOTICE OF MOTION

For Leave to Take Infant Out of the Jurisdiction.

On behalf of the infant plaintiff (*or as may be*), by C.D. of ———, his next friend, that the said infant may be at liberty to accompany ——— (*guardian*) on an intended visit to ——— on the undertaking of the said ——— that the said infant shall return within the jurisdiction of this Court within (——— months) from this time, or immediately, if so ordered by this Court.

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745. UNDERTAKING TO BRING INFANT BACK.

I, A.B., the guardian of the person of the infant C.D., do hereby undertake that the said infant shall return within the jurisdiction of this Court within ——— months from this time, or immediately, if so desired by this Court, or any Judge thereof.
Dated this ——— day of ———, 19—.

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746. PETITION

For Leave for a Ward of Court to Marry.

The petition of the above named infant A.B., by C.D. of, &c., her guardian (*or as the case may be*).
Sheweth as follows:
1. *Show how the infant has become a ward of Court—the infant's age—and the appointment of a guardian, if any.*
2. (*Show nature and amount of infant's property.*)
3. E.F., of, &c., has made proposals of marriage to your petitioner; which proposals she has, with the sanction of her said guardian, accepted, subject to the approval of this Honourable Court.
4. *Show the age, rank, position in life, and fortune of the proposed husband.*
Your petitioner therefore humbly prays that an inquiry may be made whether the said proposed marriage is a fit and proper marriage for your petitioner; and if so, that your petitioner and the said E.F. may be at liberty to lay proposals before a Judge in Chambers for a settlement on such marriage; and that a proper settlement of the property of your petitioner may be approved, and be executed by all necessary parties; and that, upon the due execution thereof, your petitioner and the said E.F. may be at liberty to intermarry.

747. NOTICE OF MOTION TO COMMIT HUSBAND.

For Marrying Ward Without Consent of Court.

On behalf of the plaintiff that A.B., of, &c., may be committed to prison for contempt of this Honourable Court in having married the infant defendant C.D. without leave of the said Court.

II. Maintenance.

748. NOTICE OF MOTION FOR MAINTENANCE.

Take notice that an application will be made on behalf of ——— mother of the above named infant before the presiding Judge in Chambers at Osgoode Hall, Toronto, on the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon or so soon thereafter as the motion can be heard for an order that there be allowed out of the moneys in Court herein to the credit of the above named infant the sum of $——— a year for his support, maintenance and education.

749. PETITION TO APPOINT GUARDIAN

And Allow Maintenance of Infant of Unsound Mind.

In the High Court of Justice.

In the matter of A.B., an infant under the age of twenty-one years, and a person of unsound mind, not so found.

To the Honourable the Judges of the High Court of Justice for Ontario.

The petition of A.B. of ———, an infant under the age of twenty-one years, and a person of unsound mind, not so found, by C.D., of, &c., his next friend. Showeth as follows:

1. Your petitioner is a person of unsound mind, but has never been so found by inquisition or other proceeding in lunacy.

2. (*State the age of the petitioner.*)

3. (*State the nature and amount of his property, and that the fund proposed is available for that purpose.*)

4. (*State what relatives the petitioner has.*)

5. (*Show where the petitioner is now residing, and under whose care.*)

6. It will be for the benefit and advantage of your petitioner that the said C.D. should be appointed guardian of his person and estate; and that an allowance of $——— should be made for his maintenance out of the income of his said property.

Your petitioner therefore prays:

1. That the said C.D. or some other person may be appointed the guardian of the person of your petitioner during his minority, or until further order.

2. That the costs of this application may be taxed and paid out of the estate of said infant.

3. That out of the interest to accrue from time to time the sum of $——— may be allowed for the maintenance of your petitioner; and be paid quarterly to his said guardian, until further order.

750. MAINTENANCE ORDER.

Upon the application of A.B. mother of ——— the above named infant, the Official Guardian appearing and consenting hereto and upon reading the affidavits of ——— (and the certificate of the Accountant of the Supreme Court of Judicature for Ontario, *if necessary*) and upon hearing what was alleged.

1. It is ordered that out of the moneys in Court herein to the credit of the above named infant, there be paid to ——— the sum of $——— a year for a period of ——— years from the date hereof for the support, maintenance and education of the above-named infant in equal semi-annual (*or* quarterly, *or as the case may be*) payments. The first of such payments to be made forthwith (*and in the case of more than one infant*:) such sums to be charged equally against the shares of the above named infants.

Add if necessary: Such payments to be with the privity of the Official Guardian.

2. And it is further ordered that out of the moneys in Court herein to the credit of the above-named infant there be paid forthwith the costs of this application which are hereby fixed at the sum of $———, and the costs of the Official Guardian which are hereby fixed at the sum of $——— to the parties respectively entitled thereto (*and in case of more than one infant*:) such sums to be charged equally against the shares of the above named infants.

751. NOTICE OF MOTION

For Increase of Maintenance.

On behalf of C.D. of ———, the next friend (*or as may be*) of the above mentioned infant that the sum of $——— per annum may be allowed, in addition to the sum of $——— per annum allowed by the order dated the ——— day of ———, 19—, making together $——— per annum for the maintenance, and education and support of the said infant A.B. as from the ——— day of ———, 19—, for the period of ——— years.

752. AFFIDAVIT FOR MAINTENANCE ORDER

1. *State the age of the infant, the nature and amount of his property, what relatives he has, where he is residing, and under whose care*:

2. *Show that the fund proposed for maintenance is available for that purpose.*

3. *Show that the sum sought to be allowed for maintenance is a proper amount; and set forth, in a schedule, a scheme for the application thereof, under the following or similar heads:—*

Education .....
Clothing .....
Medical attendance .....
Maintenance, Incidental expenses .....

Total .....$

753. ORDER INCREASING MAINTENANCE.

1. It is ordered that out of the moneys in Court herein to the credit of the above named infant (*or* infants) there be paid to ——— mother (*or as the case may be*) of the above named infant (*or* infants) the sum of $——— a year in addition to the amount ordered to be paid to the said ——— for the maintenance, support and education of the above infant child (*or* children) by the order of the Hon. Mr. Justice ——— made on the ——— day of ———, 19—.

2. (*Costs, as in paragraph No. 2 of Form 750.*)

III. Sale of Infants' Lands.

754. PETITION FOR SALE OF INFANTS' LANDS.

(*Rule 960 et seq.*)

In the High Court of Justice.

In the Matter of E.B. and F.B. infants under the age of twenty-one years.

To the Master in Chambers:

The humble petition of E.B. and F.B., both of the Village of ——— in the County of ———, infants under the age of twenty-one years, by M.B. of the same place, widow, their mother and next friend, and the said M.B. showeth:

1. Your petitioners E.B. and F.B. are two of the children of A.B., late of the Village of ——— in the County of ———, farmer, who died intestate on the ——— day of ———, 19—.

2. The said A.B. left him surviving your petitioner M.B. his widow, and five children only, namely, G. who is of the full age of twenty-one years and is now married to one A.W. of the Township of ———, farmer, H.B. of the Township of ———, farmer, who is also of the full age of twenty-one years, J.B. who subsequently died intestate, unmarried and without issue, on the ——— day of ———, 19—, and your petitioner E.B. being twelve years of age, and your petitioner F.B. being nine years of age.

3. The said A.B. never had any other children, and your petitioners and the said G.W. and H.B. are his sole and only heirs and heiresses at law.

4. Your petitioner M.B. was duly appointed by the Surrogate Court of the County of ——— and she is now the sole administratrix of the estate of the said A.B., deceased.

5. The said A.B. died possessed of personal property, consisting of ———, which was of the aggregate value of and actually realized $———; but the said personal property has been all exhausted in the payment of debts due by the said A.B. at the time of his death and his funeral and testamentary expenses.

6. There still remain due by the estate of the said A.B. divers debts amounting in the aggregate to the sum of $———, and the creditors to whom the same are due are pressing for payment and threaten to and will, unless they be paid without delay, take legal proceedings to recover the same out of the real estate hereinafter mentioned, and your petitioners are apprehensive that the estate of the said A.B. will be put to great costs and expenses in consequence of such proceedings.

7. The said A.B. was at the time of his death seised of the following real estate, namely, ———.

8. The said ——— now is vacant and unproductive, the building thereon out of repair, and the same cannot be made productive and put in repair except by ——— but your petitioners have no means of ———, and the said G.W. and H.B. are unwilling to join your petitioners in raising money by mortgage of the said lot, in order to ———.

9. The said ——— could not in any event be rented in its present condition for more than $——— per annum and taxes.

10. The taxes upon the said ——— amount to $——— per annum, and your petitioners E.B. and F.B. have no means to meet their share thereof, and there is now $——— of taxes in arrear upon the said lot, and the same is advertised for sale on the ——— day of ——— next and will then be sold for taxes unless the arrears be sooner paid.

11. One R.L. of the said Village of ———, merchant, has offered to purchase the said ——— for the sum of $———, which your petitioners are advised is a fair price for the same, and the said G.W., H.B., and your petitioner M.B. have agreed to concur in a sale of the said lot to the said R.L. at that sum, and your petitioners E.B. and F.B. submit that their interests require and will be substantially promoted by the acceptance of the offer of the said R.L.

14. Your petitioners submit that from the nature of the property it would be inexpedient to attempt to rent the said lot.

16. Your petitioners submit that it is necessary as well for the payment of the debts remaining due by the estate of the late A.B. as also for the interests of your petitioners E.B. and F.B. that the said ——— should be sold.

17. Your petitioner M.B. is willing to release her dower in all the said real estate and also her interest therein in right of the said J.B. deceased, and to accept in lieu thereof such gross sum as this Honourable Court may think reasonable.

18. Your petitioners E.B. and F.B. further say that they have no other property or means of livelihood except their interest in the said real estate, and that by reason of their tender years they are unable at present to earn anything towards defraying the expenses of their maintenance and education.

19. (*If necessary*: No guardian has been appointed for your petitioners E.B. and F.B., but your petitioner M.B. is willing to be their guardian if appointed by this Honourable Court.)

20. Your petitioners E.B. and F.B. are now attending the public school in the said Village of ———, and they submit that it would be for their benefit that they should be enabled to attend school continuously until they respectively attain the age of fifteen years.

Your petitioners therefore pray:

1. That the offer of the said R.L. to purchase the said ——— may be accepted, and that upon payment of his purchase money into Court a conveyance may be made to him of the said lot.

Or (That the said ——— may be ordered to be sold by public auction, private contract or tender, as may seem best.)

2. That an account may be taken of the debts remaining due by the estate of the said A.B., and that the same may be ordered to be paid out of the proceeds of the said sales.

3. That the shares of the said G.W., H.B. and M.B. in the said purchase money may also be ascertained and paid to them out of the proceeds of the said sales.

4. That the costs of this matter may be ordered to be paid out of the proceeds of the said sales.

5. *If necessary*: And your petitioners further pray that the said M.B. or some other fit and proper person may be appointed the guardian of your petitioners E.B. and F.B. during their minority.

6. And that all proper directions may be given and accounts taken, and that your petitioners may have such further and other relief as to this Honourable Court may seem just.

And your petitioners will ever pray, &c.

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755. NOTICE OF PRESENTATION

To be Endorsed on Petition.

(*Rule 937.*)

Take notice that the within petition will be presented to the Master in Chambers (*or* the presiding Judge in Chambers *or as may be*) at Osgoode Hall, in the City of Toronto (*or as may be*), on ——— day the ——— day of ———, 19—, at ——— o'clock in the forenoon or so soon thereafter as counsel (*or* the matter) can be

heard. If you do not attend on such presentation such order may be made in your absence upon the petitioner's own showing as may seem just, and you will not be entitled to receive notice of any future proceedings on the petition.

And take notice that in support of the petition will be read the affidavits of (*or* depositions of ——— taken *as may be*).

Dated this ——— day of ———, 19—.

To ———.

Solicitors for the respondent.

Petitioner's Solicitor.

This petition is filed by Messrs. ——— of the City of ——— in the County of ———, solicitors for the within-named petitioner who carries on business at ———.

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756. CERTIFICATE OF MASTER

Of Production of Infants Under Rule 967.

I certify that the above-named infants A.B., C.B., and D.B. were on the ——— day of ———, 19—, produced before me at my Chambers at ——— and that they appeared to me to be under the age of fourteen years.

Dated this ——— day of ———, 19—.

Master at ———.

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757. CERTIFICATE OF EXAMINATION OF WITNESSES

In Support of Petition. (Rule 968.)

Examination of witnesses taken before me *viva voce* in support of the petition in this matter under the provisions of Rule Number 968 at my Chambers at ——— this ——— day of ———, 19—.

J.S., of ——— in the County of ———, jeweler, being called on the part of the petitioner and being duly sworn, states:—

I certify that the foregoing depositions were taken before me *viva voce* under the provisions of Rule 968 at my Chambers at ——— this ——— day of ———, 19—.

Master at ———.

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758. CERTIFICATE OF EXAMINATION

Of Infants over Fourteen Years of Age.

The examination of the above named infants E.B. and F.B, taken before me apart under the provisions of Consolidated Rule 966, this ——— day of ———, 19—, at my Chambers, in the City of ———.

I certify that the foregoing examinations of the said E.B. and F.B. were taken by me apart, at my Chambers, at the City of ———, on ———, the ——— day of ———, 19—.

Dated this ———, 19—.

Master at ———.

759. CONSENT OF ADULT PARTIES

Jointly Interested with Infants in Lands to be Sold.

I, A.B., of ———, in the County of ———, yeoman, do hereby consent that the lands and premises mentioned in the petition in this matter, namely, village lot number six, &c., (*describing land as in the petition*), be sold under the direction of this Honourable Court, and I agree to join in the conveyance to the purchaser, and to accept such part of the purchase money as may be awarded to me by this Honourable Court.

760. ORDER FOR SALE OF INFANTS' LANDS.

In the Matter of A.B., C.B., and D.B., all infants under the age of 21 years.

Upon the petition of the above named infants by J.B. ———, in the County of ———, (farmer), their father and next friend, and of the said J.B., presented unto this Court this day, upon reading the said petition, and the affidavits of ——— and the depositions taken before (the Master in Ordinary and the Master of this Court at ———), and the examination of the said petitioners A.B. and C.B. taken before the (Master in Ordinary and the said Master at ———, and the certificate of the said Master at ——— as to the said petitioner D.B.), (and the offer of ——— of the ——— of ———, to purchase the lands, in the petition mentioned for the sum of $———), and upon hearing the solicitor for the said petitioners and the Official Guardian, and it appearing that it is necessary, for the maintenance and education of the said infants, that (part of) the lands in the said petition mentioned should be sold (*or* it appearing that the lands in the said petition mentioned are exposed to waste and dilapidation, *or* to depreciation, by reason of (*stating cause*), and that the interest of the said infants requires and will be substantially promoted by a sale of the said premises) and upon hearing what was alleged.

1. It is ordered that the following lands being all and singular those certain parcels or tracts of land and premises in the said petition mentioned (*or if a part only is to be sold, describe lands to be sold specifically, and add,* being part of the lands in the said petition mentioned), be forthwith sold with the approbation of the said Local Master of the Court at ———, freed from the mortgage of ——— (and the dower of ———), in the said petition mentioned (*or* that the offer of ——— of the ——— of ——— to purchase the said lands for the sum of $——— be and the same is hereby approved of and accepted.)

2. And it is ordered that the purchaser or purchasers do pay his or their purchase money into Court, to the credit of this matter, subject to the order of this Court, and all proper parties are to join in the conveyances to the purchasers as the said Master shall

direct, and the said Master is to execute the said conveyances on behalf of the said infant D.B.

3. And it is ordered that the said Master do take an account of the amount due to the said ——— in respect of their mortgage (and also to fix a sum in gross to be allowed to the said ——— in lieu of dower), and to tax to them their costs of this matter.

4. And it is further ordered that the said purchase money when paid into Court be applied.

First: In payment of the amount found due to ——— upon their said mortgage (and of the sum in gross to be allowed to the said ——— in lieu of dower), according to their priorities, to be settled by the said Master.

Second: In payment of the costs of the said petitioners and the Official Guardian to be taxed, those of the petitioners as between solicitor and client.

Third: The balance to remain in court to the credit herein of the above named infants subject to the further order of this Court.

Or, 4 where there is no mortgage or dower on the land.

4. And it is further ordered that the costs of the petitioners herein and of the Official Guardian be taxed, those of the petitioners as between solicitor and client, and paid out of the purchase money in Court herein to the parties respectively entitled thereto forthwith after taxation thereof.

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761. ORDER FOR SALE OF INFANTS' LANDS.

(*Another Form.*)

Upon the petition of the above named infants by J.B. of ———, in the County of ——— (farmer) their father and next friend, and of the said J.B., presented unto this Court this day, upon reading the said petition and the affidavits of ——— and the depositions taken before (the Master in Ordinary and the Master of this Court at ———), and the examination of the said petitioners A.B. and C.B. taken before the (Master in Ordinary and the said Master at Kingston, and the certificate of the said Master at Kingston as to the said petitioner D.B.) and upon hearing the solicitor for the said petitioners, and it appearing that it is necessary for the maintenance and education of the said infants that (part of) the lands in the said petition mentioned should be sold (*or* it appearing that the lands in the said petition mentioned are exposed to waste and dilapidation, *or* to depreciation, by reason of (*stating cause*) and that the interest of the said infants requires and will be substantially promoted by a sale of the said premises), and it appearing that J.B. is a fit and proper person to be appointed guardian of the above named infants and their estates:

1. It is ordered that the said J.B. be and he is hereby appointed guardian of the persons and estates of the said infants, he first giving security to the satisfaction of (the Master of this Court at

———) before he in any way inter-meddles with the estate of the said petitioners by virtue of this order.

2. It is further ordered that the following lands, being all and singular those certain parcels or tracts of land and premises in the said petition mentioned (*or if a part only is to be sold, describe lands to be sold specifically, and add*: being part of the lands in the said petition mentioned), be forthwith sold with the approbation of the said (Master at ———), freed from the mortgage of ——— (and the dower of ———) in the said petition mentioned.

3. And it is ordered that the purchaser or purchasers do pay his or their purchase money into Court, to the credit of this matter, subject to the order of this Court, and all proper parties are to join in the conveyances to the purchasers as the said Master shall direct, and the said Master is to execute the said conveyances on behalf of the said infant D.B.

4. And it is ordered that the said Master do take an account of the amount due to the said ——— in respect of their mortgage (and also fix a sum in gross to be allowed to the said ——— in lieu of dower) and to tax to them their costs of this matter.

5. And it is ordered that the said Master do inquire and state of what the fortune of the said infants consists, and what (if anything) would be a proper sum to be allowed for the future maintenance and education of the said infants during their minority, having regard to the amount of their fortune and position in life (and the ability of their said father to maintain them), and for what time such allowance should be paid.

6. And it is further ordered that the said Master do tax to the said petitioners their costs of this matter as between solicitor and client.

7. And it is further ordered that the said purchase money when paid into Court be applied—

First: In payment of the amount found due to upon their said mortgage (and of the sum in gross to be allowed to the said ——— in lieu of dower), according to their priorities, to be settled by the said Master.

Second: In payment of the costs of the said petitioners as between solicitor and client.

8. And it is ordered that the residue of the purchase money be invested for the benefit of the said infants in equal shares and such part of the income thereof (and also of the principal money for their respective shares) as the said Master shall direct, be paid to the guardian for the said infants from time to time for the maintenance and education of the said infants and the residue of the said shares, with any interest which may accumulate thereon be paid to the said infants respectively as they shall respectively attain their majority, unless this Court in the meantime make any other order concerning the same.

762. ORDER ALLOWING MORTGAGE

Of Infants' Lands (Rule 960 et seq.)

In the Matter of E.B. and F.B., infants under the age of twenty-one years.

Upon the petition of the above named infants, upon reading the said petition, the examination of the said infants and of (*give names of other witnesses*), and the affidavits of ——— and ———, and upon hearing the solicitor for the said petitioners, the official guardian *ad litem* appearing and not objecting to this order:

1. It is ordered that the said petitioners be at liberty to mortgage the lands mentioned in the said petition being (*set out description of lands*) for a sum not exceeding ——— dollars, bearing interest at the rate of ——— per cent. per annum, such interest to be paid (*set out times for payment*) on all sums remaining unpaid, the principal sum of ——— dollars to be payable in ——— years from the date of the said mortgage, such mortgage to contain the following provisions: (*set out special provisions.*)

2. And it is further ordered that the said mortgage be settled by the (*give name of officer to whom it has been referred*), who is to execute the same on behalf of such of the said infants as are unable to execute the same for themselves.

3. And it is further ordered that the said mortgage money be paid into Court to the credit of this matter and be applied:

First: In payment of, &c.

Secondly: In payment of, &c.

Thirdly: In payment of the costs of this application and of preparing and procuring the execution of the said mortgage, to be taxed as between solicitor and client, such costs to include those of the official guardian *ad litem* of and incidental to this application.

4. And it is further ordered that the said moneys be paid out with the privity of the said official guardian *ad litem*.

IV. Custody of Infants.

763. NOTICE OF MOTION FOR CUSTODY OF INFANT.

In the High Court of Justice.

or

In the Surrogate Court of the County of ———.

In the Matter of A.B. of, &c., an infant under the age of 21 years.

Take notice that an application will be made on behalf of C.B. of ———, the mother of the above-named infant, before the presiding Judge in Chambers at Osgoode Hall, Toronto (*or* before the Judge of this Court at his Chambers at the ——— of ——— in the

County of ———) on ——— day the ——— day of ———, 19—, at the hour of (eleven) o'clock in the forenoon, or so soon thereafter as the motion can be heard, for an order that the said C.B. do have the custody of the said infant, and that F.B. the father of the said infant do pay to the said C.B. the sum of $——— monthly for the maintenance of the said infant, or for such further or other order as to the Judge shall seem just.

And take notice that in support of such motion will be read the affidavit of C.B. filed.

Dated at ——— the ——— day of ———, 19—.

To ———.

Solicitor for the said C.B.

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764. ORDER FOR CUSTODY OF INFANT.

1. It is ordered that C.B., the mother of the above named infant, do have the custody of the said infant during (his) minority or until further order.

2. And it is further ordered that (*such provisions as to the father having access to the infant as may have been directed*).

3. And it is further ordered that D.B. of ——— the father of the said infant, do pay to the said C.B. on the ——— day for each week at the office of ———, the solicitors for the said C.B. the sum of ——— dollars for the maintenance of the said infant in the custody of the said C.B.

4. And it is further ordered that the said D.B. do pay to the said C.B. her costs of this application forthwith after taxation thereof.

CHAPTER XXIX.

LUNATICS.

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765. PETITION TO DECLARE A PERSON A LUNATIC.

9 Edw. VII. (1909), Chapter 37.

IN THE HIGH COURT OF JUSTICE.

In the Matter of A.B., a supposed lunatic.

To the Honourable the Judges of the High Court of Justice:

The petition of C.B. of, &c., and R.D. of, &c., showeth:

1. The above named A.B. of the ——— of ——— in the County of ———, (*addition,*) for eleven years past has been and now is so deprived of his reason and understanding that he is rendered altogether unfit and unable to govern himself or to manage his affairs, as by the affidavits filed in support of this petition appears.

2. The said A.B. is entitled to the following lands and premises in fee simple, namely: (*describe lands*) which are of the value of $——— and which have been and now are rented for an aggregate annual rental of $——— (*or* which said lands are wholly unproductive *or as may be,*) and he is also possessed of personal estate consisting of (*shortly describe it*) which is of the aggregate value of $——— and from which an annual income of $——— is derived. (*or as may be.*)

3. The said A.B. is now of the age of ——— years and has never been married.

4. From the ——— day of ———, 19—, until the ——— day of ———, 19—, the said A.B. resided with and under the care of ———, but on or about the said last mentioned day he was removed to the Provincial Lunatic Asylum at Toronto, where he has been ever since and now is.

5. Your petitioner C.B. is a brother of the said A.B., and your petitioner R.D. is a son of W.D., formerly W.B., now deceased, who was a sister of the said A.B., and the said A.B. has no other relatives resident in this Province.

6. Your petitioners submit that it is necessary and for the interest of the said A.B. that some fit and proper person should be appointed committee of the person and estate of the said A.B.

Your petitioners therefore pray:

1. That a commission may issue out of and under the seal of this Honourable Court to enquire as to the alleged lunacy of the said A.B., or that the said A.B. may be declared to be a lunatic.

2. That some fit and proper person may be appointed committee of the person and estate of the said A.B.

3. That your petitioners may be paid their costs of this matter out of the estate of the said A.B.

4. That all proper directions may be given, and that your petitioners may have such further and other relief as may seem just.

And your petitioners will ever pray, &c.

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766. INDORSEMENT ON PETITION.

Take notice that the within petition will be presented before the presiding Judge in Chambers, at Osgoode Hall, Toronto, on ——day the ——day of ——— (*six clear days after service of the petition on the alleged lunatic*) at ——— o'clock in the forenoon or so soon thereafter as the said petition can be heard.

And further take notice that in support, etc.

767. AFFIDAVIT FOR DECLARATION OF LUNACY.

IN THE HIGH COURT OF JUSTICE.

In the matter of A.B., a supposed lunatic.

I, C.D., of the City of ———, Doctor of Medicine, make oath and say:

1. I have since the year 19— been attending the above-named A.B., formerly of ———, (who has been ever since the said year, and now is, a patient residing in the Provincial Lunatic Asylum at ———.)

2. I have always considered him a person of weak intellect and erroneous judgment, incapable of conducting his own affairs, and, if at liberty, liable to offend public decorum.

3. He asserts, &c., (*set out specifically all instances of mental aberration, stating facts, not opinions.*)

4. He has likewise many other aberrations of intellect which are somewhat difficult to describe, but are sufficiently marked in his conduct, and which leave no doubt in my mind that the said A.B. is a lunatic and wholly unfit for the government of himself and his affairs.

6. I saw the said A.B. at the said Lunatic Asylum on the ——— day of ——— instant, and found that he was still subject to the mental hallucinations which I have hereinbefore described, and I am of opinion that his lunacy is incurable.

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768. ORDER DECLARING LUNACY AND APPOINTING COMMITTEE.

In the matter of A.B., a lunatic.

Upon the petition of C.D. of, &c., ———, presented this day, and upon hearing read the said petition and the affidavits of, &c., and upon hearing what was alleged by the solicitor for the said petitioner.

1. It is hereby declared that the said A.B. is a lunatic.

2. And it is ordered that C.D. of, &c., ——— be and he is hereby appointed committee of the person (and estate) of the said A.B., he first giving security to the satisfaction of the (Local Master of the Supreme Court at ———) in the sum of $———, before he shall in anywise intermeddle with the estate of the said lunatic, (*or*, that it be referred to the Local Master of the Supreme Court at ———, to appoint some fit and proper person or persons, to be committee of the person (and estate) of the said A.B. such committee first giving security, &c., *as above*).

3. And it is further ordered that the said committee (when appointed) do once in each year or oftener if required make a just and true account before the said Master, of his dealings with the said estate, and do also from time to time, pay into Court to the

credit of this matter, subject to further order, the balances which may be found to be in his hands upon the footing of such accounts.

4. And it is further ordered that the said Master do propound and report a scheme for the management of the estate of the said lunatic and for the maintenance of the said lunatic (and his family).

5. And it is further ordered that the costs of the said petitioner in this matter and of this motion and of the reference hereby directed, be taxed as between solicitor and client, and paid out of the estate of the said lunatic.

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769. WARRANT TO PRODUCE A LUNATIC.

IN THE HIGH COURT OF JUSTICE.

In the matter of A.B., a person supposed to be of unsound mind.

Whereas a petition has been presented to this Court on behalf of ——— and others, praying among other things that the above named A.B. may be declared a lunatic; and whereas the hearing of the said petition hath been adjourned before me the Honourable ———, one of the Justices of this Court, until ——— the ——— day of ———, A.D. 19—, at Osgoode Hall in the City of Toronto, and it is expedient that the said A.B. should be enabled to be present at the hearing of the said petition and the examination of witnesses then to take place, if he can do so without injury to himself or others; and whereas it has been made to appear to me that the said A.B. is now (an inmate of the Provincial Lunatic Asylum at ———) in the custody of you (D.C. as Superintendent of the said asylum:) These are therefore to will and require you to produce the said A.B. before me at Osgoode Hall in the City of Toronto on ——— the ——— day of ———, 19—, at the hour of —— o'clock in the ——— noon, there to be examined touching the matters of the said petition, and to be present at the hearing thereof, provided the said A.B. can be so produced without injury to himself or others, and you are to give him notice accordingly.

Dated at ——— this ——— day of ———, 19—.

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770. NOTICE BY ALLEGED LUNATIC DEMANDING A JURY.

(9 Edw. VII. (1909), Ch. 37, S. 8.)

In the matter of A.B., an alleged lunatic.

I, the above named A.B. having been on the ——— day of ——— served with a notice of a petition for an order for a declaration of lunacy and an issue having been directed by this Court to try the question of my lunacy, do hereby demand that the same be had before a jury.

Dated the ——— day of ———, 19—.

771. BOND OF COMMITTEE OF LUNATIC.

9 Edw. VII. (1909), Ch. 37, S. 11.

(Rules 759 and 765.)

Know all men by these presents, that we C.B. of, &c., E.F. of &c., and G.H. of, &c., are jointly and severally held and firmly bound unto The Accountant of the Supreme Court of Judicature for Ontario, his successors and assigns, in the penal sum of $——— (*double the amount of the personal estate and of the annual rents and profits of the real estate*) to be paid to the said Accountant, his successors or assigns, or his or their certain attorney or attorneys, for which payment well and truly to be made we bind ourselves, and each of us binds himself, our and each of our heirs, executors and administrators, respectively, firmly by these presents. Sealed with our seals and dated this ——— day of ———, 19—.

Whereas by an order made by the High Court of Justice for the Province of Ontario, dated the ——— day of ———, 19—, and made "In the matter of A.B., a lunatic," it is declared that the said A.B. is a lunatic, and it is by the said order referred to the Local Master of the Supreme Court of Judicature at ——— to appoint some fit and proper person committee of the person and estate of the said A.B. upon such person giving security to the satisfaction of the said Master, before he should intermeddle with the estate of the said A.B. (*Where the order declaring the lunacy also appoints the committee this recital must be varied accordingly*;)

And whereas the said Master hath approved of the above bounden E.F. and G.H. as sureties for the said C.B. and hath also approved of the above written obligation with the underwritten condition as a proper security to be entered into by the said C.B., E.F. and G.H. pursuant to the said order, and in testimony thereof hath signed an allowance in the margin hereof;

Now the condition of the above written obligation is such that if the above bounden C.B. do and shall once in each year, or oftener if thereunto required by the said Court, duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the real estate, and in respect of the personal estate of the said A.B., and do and shall truly pay into Court the balances which shall from time to time be certified to be due from him at such times as may be directed, and do within six months after his appointment as such committee file in the office of the said Master or of such officer as may be appointed for that purpose, a true inventory, verified by the oath of the said C.B., of the whole real and personal estate of the said lunatic, stating the income and profits thereof, and setting forth the debts,

credits and effects of the said lunatic, so far as the same shall have come to the knowledge of the said C.B.; and in case any property belonging to the estate of the said lunatic shall be discovered by the said C.B. after the filing of such inventory, of the said A.B. shall file in the office of the said Master, or of such officer appointed as aforesaid, a true account of the same, verified by the oath of the said C.B., from time to time as the same shall be discovered; and if the said C.B. shall be careful to see the houses, buildings and structures of the said lunatic to be well and sufficiently repaired, and so kept and maintained, so long as he shall be committee of the said lunatic's estate, and shall carefully preserve and keep all the deeds, evidences and writings touching the real and personal estate of the said lunatic as now are or hereafter shall come to his hands, custody or possession, and shall provide for the person of the said lunatic and for his safety, and shall not alienate his interest in the custody of the person and estate of the said lunatic, and shall in all things observe and perform the orders and directions of the said Court touching or concerning the person and estate of the said lunatic, and in all things demean himself as a careful and faithful committee of the person and estate of the said lunatic, then the above obligation shall be void, otherwise the same shall be and remain in full force and virtue.

Signed, sealed and delivered in presence of

C.B. [SEAL.]
E.F. [SEAL.]
G.H. [SEAL.]

Note.—Affidavits of execution and of justification must accompany.

772. MASTER'S REPORT.

IN THE HIGH COURT OF JUSTICE.

Local Master of the High Court of Justice at ———. ——— day the ——— day of ———, 19—.

In the matter of A.B., a lunatic.

Pursuant to the order herein dated the ——— I proceeded in presence of the solicitors for the Petitioners and for the Inspector of Prisons and Public Charities to dispose of the matters therein referred and find as follows:

1. The said lunatic is of the age of ——— and has never been married. His father and mother are both dead. His nearest relatives living are ———.

2. In the schedule hereto is set forth the property and estate of the said ———. The net annual income therefrom is about the

sum of $———, and there is to his credit in the ——— Bank at ——— the sum of $———, and cash in the hands of the said Committee of $———.

3. The said Lunatic is now and has been since about ——— confined in the Asylum for the Insane at Mimico in the County of York, where he should remain and the yearly sum of $——— payable quarterly in advance will be required for his maintenance and support in that institution as well as a further sum of $— a year for clothing and necessaries.

SUBSEQUENT REPORT.

(*Formal Parts as in Previous Form.*)

Pursuant to the order herein dated the ——— day of ———, 19—, I proceeded in presence of the solicitors for ——— the Committee of the person and estate of the said Lunatic and for the heirs at law of said Lunatic to pass the accounts of the said Committee and find as follows:

1. Since the said ——— day of ———, 19—, the date of the appointment of said Committee and up to the ——— day of ——— there has come into his hands wherewith he is chargeable on account of income the sum of $———.

2. He has properly disbursed during the said period on account of capital the sum of $——— (of which $——— has been paid into Court to the credit of this matter) and on account of income the sum of $———, and upon deducting these sums from the receipts mentioned in the preceding paragraph there remains on hand on account of capital the sum of $——— and on account of income the sum of $———.

3. I have allowed to the said Committee for his care, pains and trouble in the management of the said estate the sum of $———.

4. The costs of the said Committee have been taxed and allowed at $———.

5. In a Schedule filed herein in this office appear the particulars of all the real estate of which the said ——— is seised of or entitled to and the estimated value thereof, and in a Schedule also filed appear the personal estate of the said ——— amounting to $——— (together with the estimated value thereof.)

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773. ORDER ADOPTING LUNACY REPORT.

It is ordered that the report herein of the Local Master of this Court at ——— dated the ——— day of ———, 19—, and filed the ——— day of ———, be and the same is hereby confirmed and adopted.

774. ORDER SUPERSEDING LUNACY ORDER.

Upon the humble petition of the above named A.B. of the ——— of ——— in the County of ——— presented this day, upon hearing read the said petition and an order made on the ——— day of ———, 19—, whereby the said A.B. was declared a lunatic and it was referred to the Master of the Supreme Court of Judicature at ——— to appoint a fit and proper person committee of his person and estate, and it appearing that one C.B. was appointed committee in pursuance of said order, and upon reading the affidavits of ——— and ———, and upon hearing counsel for the said petitioner and the said committee C.B.:

1. It is ordered that the said order of the ——— day of ———, 19—, be and the same is hereby superseded, and the said A.B. is hereby restored to the government of himself and his property.

2. And it is further ordered that the said C.B. do account to the said A.B. for his dealings with the estate of the said A.B. as committee as aforesaid, and that he do pass his accounts before the said Master, to whom the matter is hereby referred for that purpose.

3. And it is further ordered that upon the said C.B. passing his accounts as aforesaid, and upon his paying to the said A.B. what the said Master shall find due by him to the said A.B., the said C.B. be discharged from his said committeeship, and the bond given by him as such committee be delivered up for cancellation.

4. And it is further ordered that the costs of the said C.B. of and incidental to his dealings with the estate of the said A.B., and of this application and the reference hereby directed, be taxed between solicitor and client and be paid by the said A.B.

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775. NOTICE OF MOTION BY PLAINTIFF

To Appoint Guardian for Defendant.

On behalf of the plaintiff that a guardian of the defendant A.B. a person of unsound mind not so found may be appointed by whom he may appear and defend this action.

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776. AFFIDAVIT IN SUPPORT.

We, E.E., of (*place of business*) gentleman, the solicitor in this cause for the plaintiff (*or as may be*) and B.E. of (*residence and description of a medical man*) do severally make oath and say as follows:

And first I, the said E.F., for myself say:

1. On the (*prove service of the writ*).

2. On the ——— day of ———, 19—, I served C.D. of (*residence and addition*) with the notice of motion now shewn to me and

marked A by delivering a true copy of the said notice to, and leaving the same with, the said C.D. personally at (*state where*) *or*, with the wife, or son, or daughter, or servant (being a grown up person) of the said C.D. at his dwelling house situate (*state where*).

3. The said C.D. is the person with whom the defendant resides (*or* under whose care the defendant A.B. was at the time of serving such notice).

4. The said A.B. has not been found of unsound mind by inquisition or other proceeding in lunacy (*or as may be*).

(*Show means of knowledge*).

And I the said B.E. for myself say:

5. I have been in actual practice as a physician (*or as may be*) for ——— years last past.

6. (*Show that the defendant is of unsound mind and the deponent's means of knowledge as on application for Lunacy order.*)

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777. NOTICE OF MOTION

For a Guardian, Where Committee is Adversely Interested.

On behalf of the defendant A.B. a person of unsound mind so found by C.D. of (*residence and addition*) his next friend for the purpose of this application, that the said C.D. or other proper person may be appointed his guardian by whom he may defend this action; his committee, the defendant E.F., having an adverse interest.

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778. AFFIDAVIT IN SUPPORT.

I, C.D., of, &c., the solicitor in this cause for the defendant A.B. make oath and say as follows:

1. The defendant A.B. has been served with the writ of summons herein and an appearance on his behalf has been entered.

2. The said A.B. has, by proceedings duly taken in that behalf, been found to be a person of unsound mind; and the defendants E.F. has been appointed and is now the committee of his estate.

3. The said E.F. has an interest in the matters in question in this action adverse to the interest of the defendant A.B.

4. I am the person proposed to be appointed guardian to the said A.B., and I have no interest whatever in the matters in question in this action adverse to the interest therein of the said A.B.

5. I have been requested to apply to be appointed guardian of the said defendant A.B. by (*stating name and shewing relationship of such person to the person of unsound mind*), and I say that the said ——— has no interest whatever in the matter in question in this action adverse to the interest of the said defendant A.B. therein, to the best of my knowledge and belief.

779. NOTICE OF MOTION

To Assign Guardian.

On behalf of the defendant A.B. a person of unsound mind not so found, by C.D. of (*residence and addition*) his next friend for the purpose of this application, that the said C.D. or other proper person may be appointed his guardian by whom he may defend this action.

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780. AFFIDAVIT IN SUPPORT.

We, C.D. of, &c., the solicitor in this cause for the defendant A.B. and B.E. of, &c., physician, severally make oath and say as follows:

And first I the said C.D. for myself say:

1. The said A.B. has been served with the writ of summons herein and an appearance on his behalf has been entered.

2. I am the person proposed to be appointed guardian to the said A.B., and I have no interest whatever in the matters in question in this action adverse to the interest therein of the said A.B.

3. I have been requested to apply to be appointed guardian of the said defendant A.B. by ———, and I say that the said ——— has no interest whatever in the matter in question in this action adverse to the interest of the said defendant A.B. therein, to the best of my knowledge and belief.

4. The said A.B. has not been found of unsound mind by inquisition, or other proceeding in lunacy (*or as may be*).

And I the said B.E. for myself say:

5. I have been in actual practise as a physician (*or as may be*) for ——— years last past; and I have for ——— years last past professionally attended the above named A.B. (*or as may be*).

6. I personally examined the said A.B. on the ——— day of ———, 19—, at (*state where*) and on several previous occasions (*or as may be*) for the purpose of ascertaining his state of mind.

7. From such my examination of the said A.B. I am decidedly of opinion that he is of unsound mind, and wholly incapable of the management of himself or his affairs, or of the care of his property; and I have formed such opinion from (*state the grounds, giving specific instances of insanity*).

CHAPTER XXX.

TRUSTEES.

The Trustee Relief Act, R.S.O. (1897), Ch. 336, Amended by 3 Edw. VII. (1903), Ch. 7, S. 50; 9 Edw. VII. (1909), Ch. 37, S. 37.
The Trustee Act, R.S.O. (1897), Ch. 129, and Amendments.
(Rule 938.)

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781. AFFIDAVIT OF TRUSTEE

For Leave to Pay Trust Fund, &c., into Court.
Trustee Relief Act, Secs. 4 and 30.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Trustee Relief Act.
In the matter of (*specify shortly the trust and the instrument creating it, e.g.*) The Trusts of the will of ———, deceased.

I, A.B., &c.

1. I am the trustee named in the (*describe the instrument creating trust, e.g.*, the will of ———, late of the City of ———, ———, deceased, which said will bears date the ——— day of ———, and the letters probate thereof granted by the Surrogate Court of the County of ——— are now shewn to me and marked A.)

2. Under the trusts declared in the said (will) for the benefit of ———, I have in my possession the sum of ———, and also the various securities for money specified in the schedule hereto annexed and marked B. to which the said ——— are entitled in equal shares (*or as may be*).

3. The sum of ——— was payable out of the said estate of the said ——— for succession duty to the Provincial Treasurer, and the same has been fully paid and satisfied as appears by the receipt of the Provincial Treasurer now produced and shewn to me and marked C. (*or* there is no succession duty payable in respect thereof as I am advised and believe *or as the case may be*).

4. The addresses of the several persons entitled to the moneys and securities referred to in the second paragraph of the affidavit so far as the same are known to me are as follows: (*give addresses*).

5. The said ——— are infants under the age of twenty-one years, the said ——— is of the age of ——— years, the said ——— is of the age of ——— years or thereabouts (*or* the said ——— are respectively of the full age of twenty-one years and upwards, and are to the best of my knowledge and belief of sound mind and under no disability.)

6. I am willing to answer all such questions relating to the application of the said moneys and securities as the Court or a Judge thereof may make or direct.

7. That the following is the place where I may be served with any petition, notice, or other proceeding relating to the moneys and securities aforesaid, to wit:

782. AFFIDAVIT BY MORTGAGEE

To Obtain Leave to Pay Surplus After Sale into Court.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Trustee Relief Act, and in the matter of a certain mortgage, dated the ——— day of ———, 19—, between A.B. and C.D.

I, C.D., &c.

1. Under and by virtue of an indenture of mortgage dated the ——— day of ———, 19—, and made between A.B. of, &c., therein called the mortgagor of the first part, his wife of the second part to bar dower, and myself of the third part, I am mortgagee of the lands and premises therein mentioned, being (*describe land*).

2. Default having been made in payment of the moneys secured by the said mortgage, I sold the said lands for the sum of $——— in exercise of the power of sale contained in the said mortgage.

3. After deducting from the said sum the amount due to me under the said mortgage for principal, interest and costs, there remains in my hands a surplus of $———.

4. *Show the circumstances under which it is sought to pay the money into Court, such as condition of the title, absence, infancy or other disability of any of the persons who may be entitled to the surplus or a share therein. State the names and addresses as far as known to the deponent of the persons interested in the surplus.*)

5. I am unable to ascertain the whereabouts of the said ——— and ———and the proportions in which the various persons entitled to the said surplus are entitled to share therein.

783. ORDER ALLOWING PAYMENT INTO COURT.

IN THE HIGH COURT OF JUSTICE.

In the matter of, &c., (*as in affidavit*).

Upon the application of ——— for an Order permitting them to pay the moneys in question in this matter into Court and upon hearing read the affidavit of ——— and the Exhibits therein referred to and upon hearing the solicitor for the said applicants.

1. It is ordered that the applicants be at liberty to pay into Court ——— dollars to the credit of this matter after deducting therefrom the costs of this application and of the payment into Court of the said money, which said costs are hereby fixed at the sum of ——— dollars, and the remainder of said sum being the sum of ——— dollars, when so paid into Court, is to be subject to further order.

2. And it is further ordered that upon such payment into Court being made the said applicants be hereby discharged in respect of all liability under (policy number ——— on the life of the said ———, late of ——— in the County of ———, deceased.)

3. And it is further ordered that a copy of this order be forthwith served upon ———, or their solicitors.

4. (*Where infants are interested in the money*: And it is further ordered that the said applicants do forthwith give notice of the payment of the said moneys into Court pursuant to the Statute in that behalf by prepaid letter through the post to the Official Guardian ad litem on behalf of the said infant.)

784. NOTICE OF ORDER.

In the matter of (*specifying, &c., as in the affidavit*).

Take notice that pursuant to the order of the Court dated the ——— day of ———, I have paid into Court to the credit of the above mentioned matter $——— (*or* I have deposited in the Court to the credit of the above mentioned matter) the following securities (*specifying them*) in which moneys (*or* securities) you appear to be interested as (*stating shortly how, e.g.*, as legatee under the will of A.B.)

Dated this ——— day of ———, 19—.

785. NOTICE OF MOTION

For Payment Out.

Take notice that an application will be made before the presiding Judge in Chambers at Osgoode Hall, in the City of Toronto on ——— the ——— day of ———, A.D. 19—, at the hour of — o'clock in the forenoon or so soon thereafter as the application can be heard, on behalf of ——— of the Township of ———, County of ——— and Province of Ontario, widow, for an order for payment out of court of the moneys now standing to the credit of the above matters being the sum of ——— dollars paid into court by ——— under an order made by the Master in Chambers dated the ——— day of ———, A.D. 19—.

786. AFFIDAVIT IN SUPPORT.

1. I am the applicant for payment out of court of the sum of ——— dollars paid into court by The ——— Assurance Company of Canada under an order made herein by the Master in Chambers on the ——— day of ———, 19—, the said sum being the amount due under a policy of life insurance issued by the said ——— Assurance Company of Canada bearing date the ——— day of ———, A.D. 19—, and numbered ——— for the sum of ——— dollars on the life of the above named A.B., deceased.

2. The said policy of life insurance was made payable to me this deponent therein described as the mother of the said A.B., deceased.

3. The said A.B., late of the Village of ———, in the Township of ——— aforesaid, deceased died on or about the ——— day of ———, A.D. 19—.

4. The said A.B. was the son of my daughter ———, but the said A.B. was brought up by me from his infancy and always lived with me, and knew me as his mother, and to the best of my knowledge he did not know until about the time of the death of his mother that he was my daughter's son and not my son.

5. My said daughter ———, died on or about the ——— day of ———, 19—, after having made her last will and testament whereby she appointed her said husband to be the executor of her said will.

6. My daughter F.B. acting under the supposition that she was the beneficiary named in the said policy made a claim to the said ——— Assurance Company aforesaid for the said moneys, but she afterwards executed a disclaimer of any right she may have had to the moneys payable under the said policy, which said disclaimer is now shown to me and marked exhibit "A" in this my affidavit.

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787. ORDER FOR PAYMENT OUT.

Upon the application of ——— for an order for payment out to her of the sum of ——— dollars now standing in Court to the credit of the above matters, upon reading the affidavit of the said ———, the exhibits therein referred to, upon reading the notice of motion, and the affidavit of service thereof upon ——— and ———, and the accountant's certificate, and upon hearing what was alleged by the solicitor for the said applicant, no one appearing for the said ——— and ——— (*or as the case may be*).

1. It is ordered that the said sum of ——— dollars standing to the credit of these matters be paid out to the said ——— together with accrued interest thereon (if any) less the sum of ——— which is to be paid to ———, solicitor for the applicant.

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788. ORIGINATING NOTICE OF MOTION

To Judge in Chambers. (*Rule 938.*)

IN THE HIGH COURT OF JUSTICE.

In the matter of the Trustee Act *or* in the matter of the Trustee Relief Act and in the matter of the trusts of an Indenture dated, &c., *or* of the will of A.B. deceased *or as the case may be.*

Take notice that a motion will be made before the presiding Judge in Chambers at Osgoode Hall, Toronto, on the ——— day of

———, 19—, at the hour of — o'clock in the forenoon or so soon thereafter as the motion can be heard on behalf of C.D. of, &c., for an order that the said C.D. may be allowed to pay into Court the moneys in his hands as executor (*or* administrator) of the will of the said A.B. (*or* as trustee under the said indenture, *or* for the opinion, advice or direction of the Judge pursuant to Sec. 39 of the Trustee Act, *or as the case may be.*)

And take notice that in support of such motion, &c.

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789. ORIGINATING NOTICE OF MOTION

To a Judge Sitting in a Weekly Court.

(Court and Style of Matter.)

Take notice that the Court will be moved at ——— on the ——— day of ——— at the hour of — o'clock in the forenoon or so soon thereafter as counsel can be heard on behalf of ——— for an order that, &c.

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790. AFFIDAVIT ON MOTION BY TRUSTEE FOR ADVICE

Under the Trustee Act. Rule 938 (g).

IN THE HIGH COURT OF JUSTICE.

In the matter of the trusts of the will of A.B., and in the matter of "The Trustee Act."

1. On the ——— day of ———, 19—, A.B., widow of G.B., late of the City of ———, Merchant, then residing in the City of ———, made a will purporting to be her last will and testament, duly executed so as to pass real estate, whereby she gave and devised all the lands and tenements, hereditaments and real estate situate in the Province of Ontario, of or to which she should at her death be seized or entitled, or of which she should at her death have power to dispose by will, unto and to the use of me, the said C.D. my heirs and assigns. The said A.B. also thereby gave and bequeathed all the moneys, securities for money, goods, chattels, credits and personal estate, situate or being within the said Province, of or to which she should at her death be possessed or entitled, or of which she should at her death have power to dispose by will, unto me, the said C.D., my executors and administrators; and both the said devise of real estate and bequest of personal estate were upon the trusts, and with, under and subject to the powers, provisos and declarations therein contained of and concerning the same.

2. By her said will the testatrix gave to her son, C.E.B., an annuity or yearly sum of $——— during his life, to be paid in equal half-yearly payments to Dr. O., of ———, for the maintenance and support of her said son; but out of that sum, $——— a

year was to be paid by the said Dr. O. to her faithful servant and friend M.T., so long as she should remain with her son, and it was her fervent hope and desire that she should remain with him so long as they both should live.

3. The testatrix also gave to her father S.T. the sum of $———, and to her sister M.O., wife of Dr. O., the sum of $———, and to me, her executor, the sum of $———, and to the British and Foreign Bible Society the sum of $———, and the testatrix directed that the above-mentioned annuity and legacies should be paid by me out of her real and personal estate in Ontario.

4. The testatrix by her said will gave to me, this deponent, power to sell the said real estate, and to collect and get in the said personal estate; and, after payment of the annuity and legacies aforesaid, declared that I should invest the same in the manner therein specified and pay over yearly unto her daughter A., the wife of J.A.C., of the City of ———, for her sole and separate use, independently of her husband, and free from his debts, control and engagements, the whole residue of the yearly rents, profits, interest, and income of the said trust estate, and that after her death I should hold the same in trust as to the whole of the residue of her real and personal estate in Ontario for the child or children of her said daughter A. then living, and their heirs, and the issue of such as should be dead, and their, his or her heirs, in equal shares as tenants in common; and, in default of child or children of her said daughter A., in trust to pay to her said husband $———, and as to the residue of the trust estate in trust for her late husband's nephews and nieces C.B., S.B., A.B. and M.B., all of the City of ———, the children of C.S.B., Merchant, and their heirs in equal shares as tenants in common.

5. The testatrix by her said will made devises and bequests of her real and personal estate in England and Scotland, and appointed me this deponent and Dr. O. and C.B. her executors, and stated her will and desire that I and my executors, administrators and assigns should have the sole management and superintendence of all her affairs, property and business in Ontario, and should prove the will there, and that the other executors should act in the execution of her will in Scotland and England.

6. On the ——— day of ———, 19—, the said testatrix made a codicil to her said will, duly executed so as to pass real estate, whereby, among other things, she revoked the bequest of the said annuity to her son C.E.B., but so as not to affect the bequest of the yearly sum of $——— to M.T., which she thereby charged on her real and personal estate in Ontario and directed it to be remitted by me to Dr. O. to be by him paid to the said M.T., and she thereby directed that the bequest to the British and Foreign Bible Society should not be paid till after the death of her daughter A.,

and then only in the event of her dying without issue at the time of her death; but in the event of her leaving issue, then that the amount of the said legacy should go to the issue, together with the provision otherwise made for such issue by her will.

7. On the ——— day of ———, 19—, the said testatrix, then residing at ———, in Scotland, signed a testamentary paper, but not in the presence of witnesses or attested in any manner, whereby, so far as her property in Ontario is concerned, she purported to make the following disposition: "To my husband's nephews, S.S.B. and A.B., any property in shares, money or loans, I may possess in Ontario at the time of my death, after paying $——— to my beloved friends G. and M.T., of ———, Ontario, Canada;" and she thereby requested S. and A. to be her trustees, believing that they would carry out her wishes, and below the signature to the said paper she wrote: "I annul my former will, now lying in ———, Ontario, Canada, in the hands of G.T., Esq. My agent in ———, who had my affairs in charge, is J.S., Esq., ———, Ontario, Canada."

8. The said testatrix died on the ——— day of ———, 19—; and probate of the said last mentioned testamentary paper was on the ——— day of ———, 19—, granted by the Surrogate Court of the County of ——— to S.S.B. and A.B., of the City of ———, in England, merchants.

9. The testatrix's son C.E.B., her father S.T., her daughter A.C., her only grandchild, daughter of said A.C., and her son-in-law J.A.C., all predeceased the testatrix.

10. Now produced and shown to me and marked Exhibit "A," &c. (*Here set forth the Letters Probate, &c., required to be produced to the Court*).

11. I am advised by my solicitors and verily believe that the testamentary paper signed at ——— is effectual as a will of personal property, but is not effectual as a revocation of the will devising the real estate; and the devise of the real estate being upon trust for sale, and thus operating as a conversion into personalty, I am in doubt as to the proper course to pursue, and desire to be advised if my proper course is or is not:—

(1) To sell the real estate in Ontario, and pay the charges made thereon by the said will and codicil, so far as the same yet subsist, and divide the residue in the manner pointed out by the will devising the real estate;

(2) Or to sell the real estate in Ontario and pay over the proceeds to the executors under the said testamentary paper, to be by them applied as directed therein by the testatrix.

791. ORDER REMOVING TRUSTEE

And Directing Reference to Appoint New Trustee.

Upon motion this day made unto this court by Mr. ——— of counsel for the plaintiffs, in presence of the official guardian of the infant defendants and of counsel for such of the defendants as are heirs and next of kin of A.B., deceased, upon opening of the matter, and upon hearing read the pleadings and proceedings herein and the affidavits of ——— filed and the exhibits therein referred to, and upon hearing what was alleged by counsel aforesaid, and the Official Guardian not objecting hereto, and counsel for the said heirs consenting hereto:

1. This Court doth order that the defendant C.D. be and he is hereby removed from the trusteeship of the trust estate in the pleadings mentioned.

2. And this Court doth further order that it be referred to the Local Master of this Court at ——— to appoint some fit and proper person or persons to be trustee or trustees of the trust estate in the pleadings mentioned, in the place and stead of the said defendant C.D.

3. And this Court doth further order that forthwith upon such appointment the defendant do execute a proper deed, to be settled by the said Master, for the purpose of conveying and assigning the trust estate and property unto such person or persons as shall be appointed by the said Master upon the several trusts in the will of the testatrix in the pleadings mentioned, or such of them as are now subsisting and capable of taking effect, and do also forthwith after such appointment and upon service hereof upon him the said defendant deliver to the person or persons who shall be so appointed by the said Master all assets and securities in the hands of the said defendant belonging to and forming part of the said trust estate in the pleadings mentioned.

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792. AFFIDAVIT OF ELIGIBILITY OF PROPOSED TRUSTEES.

1. I have, for ——— years last past, known and been well acquainted with E.F., of (*residence and addition*), and G.H., of (*residence and addition*), the persons proposed to be appointed new trustees of the will of A.B., late of (*residence and addition*), deceased, the testator in the judgment (*or* order) in this action (*or* matter), dated the ——— day of ———, 19—, named (*or* of the indenture of settlement dated the ——— day of ———, 19—, made on the marriage of A.B. with C.D., in the judgment, &c., mentioned *or as the case may be*).

2. The said E.F. has for ——— years last past carried on business as a wine merchant at ——— in the County of ———, and the said G.H. has for ——— years last past carried on business

as a manufacturer at ——— in the County of ———. During my aforesaid acquaintance with them I have had many opportunities of forming an opinion as to their habits of business and integrity. The said E.F. and G.H. respectively are persons in good credit in the neighborhood in which they respectively carry on business as aforesaid, and are both men of business habits and of strict honor and integrity.

3. In my judgment and opinion, the said E.F. and G.H. are fit, proper and eligible persons to be appointed new trustees of the said will (*or* indenture of settlement *or as the case may be*).

793. CONSENT OF PROPOSED TRUSTEES.

(*Short Title.*)

We, the undersigned, E.F. of (*residence and addition*), and G.H. of (*residence and addition*), do hereby testify our consent to accept the office of trustees, and to act in the trusts of the will of A.B., late of, &c., in case the High Court of Justice shall think fit to appoint us to that office.

Dated this ——— day of ———, 19—.

Signed in the presence of

794. AFFIDAVIT VERIFYING CONSENT OF PROPOSED TRUSTEES.

The signatures "———" and "———" respectively set and subscribed to the paper writing now produced and shown to me and marked "A," purporting to be the consent, dated the ——— day of ———, 19—, of E.F. and G.H. to accept the office of trustees of the will of A.B. (*or as may be*) are of the respective proper handwriting of the said E.F. and G.H., in such paper writing respectively named and described; as I know from having seen them respectively sign the said paper writing.

795. ORDER PERMITTING TRUSTEE TO RETIRE

And Appointing Another in his Place.

Upon motion made unto this Court this day by ——— of the ——— of ——— in the County of ——— executor (*or* trustee, *or* one of the executors) of the estate of the late ——— of ———, deceased, upon reading the consent in writing of ——— and the affidavits of ——— and the exhibits therein referred to, and upon hearing what was alleged.

1. This Court doth order that the said ——— be permitted to retire from the executorship (*or* trusteeship) of the said estate of the said ——— upon his passing his accounts before the Master at ———.

2. And this Court doth further order that upon the said ——— having duly passed his accounts as aforesaid, and upon having paid over and assigned and transferred all balances and assets of the said trust estate found in his hands, he be and he is hereby relieved and discharged of and from all liability whatsoever arising from or in any way connected with his dealings as executor (*or* trustee) with the said estate of the said ———.

3. And this Court doth further order that ——— of the ——— of —— in the County of —— be and he is hereby appointed executor (*or* trustee) in the place and stead of the said —— and that the (*trust*) estate of the said ——— be and the same is hereby vested in the said ——— for all the trusts under the will of the said ——— (*or* under the trust deed herein of the ——— day of ———, 19—).

(*Or, if such to the case be*: This Court doth order that the said ——— upon passing his accounts as aforesaid do convey and assign to the said ——— all the assets in his hands as executor (*or* trustee) under the will of the said ——— (*or* under the trust deed herein of the ——— day of ———, 19—).

4. And this Court doth further order that the costs of this application be taxed as between solicitor and client and paid to the party entitled thereto out of this estate.

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796. VESTING ORDER OF PERSONALITY.

Upon the petition of A.B. the party beneficially interested in the above trusts, this day preferred unto this Court in the presence of counsel for the said petitioner, upon opening of the matter and upon hearing read the said petition and the affidavits of ——— filed, and it appearing that there is no legal personal representative of the estate of C.D. deceased, the trustee in the petition mentioned,

1. This Court doth order that the said A.B. be and he is hereby appointed to represent the personal estate of the said C.D. for all the purposes of this application.

2. And this Court doth further order that the said A.B. and he is hereby appointed trustee in the room and stead of the said C.D. deceased, of the (two paid shares of the capital stock in the ——— Bank of ——— standing in the name of the said C.D. as trustee as in the said petition mentioned.)

3. And this Court doth further order that (the said two shares and all dividends accrued in respect thereof) be and the same are hereby vested in the said A.B. for all the estate and interest of the said C.D. therein, (upon the same trusts as the said C.D. held the said shares, or such of them as are still subsisting and capable of taking effect.)

CHAPTER XXXI.
RECEIVERS.

797. APPOINTMENT OF RECEIVER BY MASTER.

(*Rule 763.*)

(*Style of Cause or Matter.*)

I hereby appoint (*receiver's name*) receiver in this action.
Dated, &c.

(*Signature of Master.*)

798. ORDER FOR RECEIVER

Of Rents and Profits Pendente Lite.

1. This Court doth order that upon ——— of the ——— of ——— in the County of ——— giving security to the satisfaction of the (Local) Master of this Court at ——— the said ——— be and he is hereby appointed to receive the rents and profits of the real estate of ——— the intestate in the pleadings mentioned.

2. And this Court doth further order that the tenants of the said real estate do attorn and pay their rents in arrear and growing rents to such receiver.

3. And this Court doth further order that the said receiver do from time to time pass his accounts before the said Master as the said Master shall direct, and do pay the balances which shall from time to time be certified to be due from him into Court to the credit of this action subject to further order.

799. ORDER APPOINTING INTERIM RECEIVER.

By Way of Equitable Execution.

1. This Court doth order that the plaintiff be and he is hereby appointed receiver without remuneration and without security to collect, get in and receive any moneys coming to the defendant from or in respect of any interest of the defendant in (all shares of stock in the ——— company belonging to or standing in the name of the defendant) to the extent of the plaintiff's judgment and costs until the ——— day of ——— and until any motion which may be made by the plaintiff on or before the said date to continue the appointment of the said plaintiff as receiver be disposed of.

800. ORDER APPOINTING RECEIVER

On Giving Security.

1. This Court doth order that ——— be appointed receiver, upon first giving security by bond to the satisfaction of the (Local)

Master of the Supreme Court of Judicature at ———, to receive the rents, profits and moneys receivable in respect of the following property, that is to say, (*here describe property*); but this appointment is to be without prejudice to the rights of any prior incumbrancers upon the said premises who may think proper to take possession of or receive the same by virtue of their respective securities, or if any prior incumbrancer is in possession, then without prejudice to such possession.

2. And this Court doth further order that the tenants of the said premises attorn and pay their rents in arrear and growing rents to such receiver, and that such receiver have liberty, if he shall think proper (but not otherwise), out of the rents, profits and moneys to be received by him, to keep down the interest upon the prior incumbrances, according to their priorities, and that he be allowed such payments (if any) in passing his accounts.

3. And this Court doth further order that such receiver do on the ——— day of ——— next, and at such further and other times as may be ordered by the said Master, leave and pass such accounts, and that he do on the ——— day of ——— next, and at such further and other times as may be hereafter ordered by the said Master, pay the balance or balances appearing due on the accounts so left or such part thereof as shall be certified as proper to be so paid, such sums to be paid in or towards satisfaction of what shall for the time being be due in respect of the judgment signed on the ——— day of ———, 19—, for the sum of $——— debt and $——— costs, making together the sum of $———.

4. And this Court doth further order that the costs of this order and of carrying the same into effect and of obtaining the discharge of the receiver (such costs to be ascertained by the Master) shall be primarily payable out of the sums received by the receiver, but if there shall be no sums received or the amount shall be insufficient, then upon the certificate of the Master being given stating the amount of the deficiency (such certificate to be given after passing the final account) the amount of the deficiency so certified shall be paid by the judgment debtor to the judgment creditor.

5. And this Court doth further order that the balance (if any) remaining in the hands of the receiver, after making the several payments aforesaid, be forthwith paid by the receiver into Court to the credit of this action, subject to further order.

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801. ORDER APPOINTING RECEIVER

Before Giving Security.

And the plaintiff by his counsel undertaking to be answerable for all sums the receiver hereinafter named shall receive or become liable to pay until he shall have given security as hereinafter directed.

1. This Court doth order that ——— be appointed receiver to receive the rents, profits and moneys receivable in respect of the following property that is to say (*description of property*); but his appointment is to be without prejudice to the rights of any prior incumbrancers upon the said premises who may think proper to take possession of or receive the same by virtue of their respective securities, or if any prior incumbrancer is in possession, then without prejudice to such possession.

2. And this Court doth further order that the said ——— the receiver do on or before the ——— day of ———, 19—, give security (by bond) to the satisfaction of the (local) master of the Supreme Court of Judicature at ——— for the due performance of his duties as such receiver (*continue as in previous form commencing with paragraph numbered 2 thereof*).

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802. ORDER APPOINTING RECEIVER AND MANAGER.

1. This Court doth order that ——— of the ——— of ——— in the ——— of ———, upon first giving security by bond to the satisfaction of the (Local) Master of the Supreme Court of Judicature at ——— be and he is hereby appointed receiver on behalf of the plaintiffs, holders of ———, and all other debenture holders of the ——— of all the undertaking, capital stock, goods, chattels, effects and other real and personal property of the ——— comprised in or subject to the security and charge created by the debentures issued by ——— to the plaintiffs and the other debenture holders, and to manage the business of ———, the said———to act at once, but he is not, without the leave of the Court, to act as manager beyond the ——— day of ———.

2. And this Court doth further order that the defendant the ——— do deliver over to the said ———, as such receiver and manager all stock, goods, chattels, and effects belonging to the said defendant, ———, and all books, leases, deeds, papers and documents relating thereto.

3. And this Court doth further order that the said ———, as receiver, do forthwith out of any moneys coming to his hands pay the debtors of ——— which have priority over the claims of the debenture holders, and that he be allowed all such payments in his accounts.

4. And this Court doth further order that the receiver and manager be at liberty to continue the business of the said ——— and to pay all outgoings necessary for that purpose.

5. And this Court doth further order that the said receiver and manager shall be at liberty to borrow moneys for the purpose of carrying on the said business not exceeding $——— and any advances which shall be made to him are hereby declared to be a

first charge upon the undertaking and assets of the ———, which shall come to the hands of the said receiver.

6. And this Court doth further order that the said ——— do pass his accounts before ——— of this Court, and pay his balances as the said Master shall direct.

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803. ORDER CONTINUING RECEIVER AND MANAGER.

Upon motion made this day unto this Court by counsel on behalf of the plaintiffs and receiver, in presence of counsel for the defendants, upon hearing read the order made herein on the ——— day of ———, the material upon which such order was granted, the further affidavits of ——— and ———, the exhibits therein referred to and the other proceedings had and taken herein, and upon hearing what was alleged by counsel, and it appearing that the said receiver has already given security to the satisfaction of this Court.

1. This Court doth order that ——— the receiver and manager appointed herein under the said order of the ——— day of ———, be continued as such receiver and manager until further order, but the said ——— is not without leave of the Court to act as manager after the ——— day of ——— or until motion made on or before that date to continue the receivership shall have been disposed of.

2. And this Court doth further order that the said ——— be at liberty to continue the business of the said ———, and to pay all out-goings and do all other acts necessary for the purpose.

3. And this Court doth further order and direct that leave be, and the same is hereby reserved to any person having an interest to apply on notice to the parties to this action and on good cause shewn to implement, vary, rescind, or modify the terms of this order.

4. And this Court doth further order that the said ——— do pass his accounts before ——— an official referee, and pay his balance as the said referee shall direct.

5. And this Court doth further order that the provision of clause ——— of the order of the ——— day of ——— whereby it was directed that the receiver and manager shall be at liberty to borrow moneys for the purpose of carrying on the said business, not exceeding ——— be continued and confirmed as to any portion of the said power not already exhausted and any advances which shall be made to him pursuant to the power hereby granted are declared to be a first charge upon the undertaking and assets of the ——— which shall come to the hands of the receiver.

6. And this Court doth further order that the costs of all parties to this action to ——— be taxed as between solicitor and client and be paid by the receiver out of the first moneys which shall come to his hands.

804. BOND OF RECEIVER.

Know all men by these presents that we, L.M. of ———, C.D. of ———, and E.F. of ——— are jointly held and firmly bound unto the Accountant of the Supreme Court of Judicature for Ontario in the penal sum of $——— for which payment well and truly to be made we bind ourselves, and each of us binds himself, our and each of our heirs, executors and administrators respectively, firmly by these presents.

Dated this ——— day of ———, 19—.

Whereas by an order of the High Court of Justice for Ontario made in an action wherein ——— are plaintiffs and ——— defendants, and bearing date the ——— day of ———, it was ordered that it should be referred to the Master of the Supreme Court of Judicature at ——— to appoint a proper person to receive (*or*, upon the above bounden L.M. first giving security to the satisfaction of the said Master, he should be appointed receiver of) (the rents and profits of the real estate, and to collect and get in the outstanding personal estate of the late X.Y. in the said order named.) And whereas the said Master hath appointed and approved of the above bounden L.M. and C.D. and E.F. as sureties for the said L.M. and has also approved of these presents as a proper security to be entered into by the said L.M. and C.D. and E.F. pursuant to the said order and the Consolidated Rules of the Supreme Court of Judicature in that behalf, and in testimony of such approbation, has signed an allowance in the margin hereof.

Now the condition of the above written obligation is such that if the said L.M. do and shall duly account for all and every the sum and sums of money which he shall so receive on account of the (rents and profits of the real estates, and in respect of the personal estate of the said X.Y.) and do and shall duly pay the balances which shall from time to time be certified to be due from him at such periods as may be directed, then the above obligation shall be void and of none effect, otherwise the same is to be and remain in full force and virtue.

Signed, sealed and delivered
In presence of

Note.—Affidavits of execution and justification should be attached.

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805. AFFIDAVIT AS TO FITNESS OF PROPOSED RECEIVER.

1. That I know, and have for ——— years last past been well acquainted with A.B., of the ——— of ——— in the County of ———, Esquire, the person proposed to be appointed receiver in this cause.

2. That the said A.B. is a person of respectability and integrity, and well versed in matters of business, and possesses an accurate knowledge of accounts and books of account.

3. That to the best of my judgment and belief, the said A.B. is a fit and proper person to collect and receive, and to be appointed receiver of (*as in the order for receiver*).

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806. AFFIDAVIT VERIFYING ACCOUNT OF RECEIVER.

1. I am the Receiver appointed herein, under judgment (*or* order) dated the ——— day of ———, 19—.

2. The account now produced and shown to me marked Exhibit A to this my affidavit and purporting to be my account of the rents and profits received by me as Receiver in this cause from the 1st day of January, 19—, to the 31st day of March, 19—, both days inclusive, contains a true account of all and every sum and sums of money received by me, or by any other person or persons by my order or to the best of my knowledge or belief for my use, on account or in respect of the said rents and profits.

3. The account now produced and shown to me and marked as Exhibit B hereto contains a true account of the several sums paid out and allowed by me as such Receiver from the 1st day of January, 19—, to the 31st day of March, 19—, both inclusive, and the said several sums of money mentioned in the said account hereby verified to have been paid and allowed have been actually and truly so paid and allowed by me for the several purposes in the said account mentioned.

4. The said accounts are just and true in all and every the items and particulars therein contained.

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807. NOTICE TO TENANT TO ATTORN

To Receiver.

(*Short Style of Cause.*)

I, L.M. of (*residence and addition*) the receiver appointed in this cause of the rents and profits of the real estate of A.B. the testator (*or as may be*) hereby give you notice and require you to attorn and become tenant to me for (*describe the property*) now occupied by you, and for such other part or parts of the said real estate as is or are in your occupation; and to pay to me your rent in arrear and the growing rent for the said premises..

Dated this ——— day of ———, 19—.

Receiver.

To W.P. of (*residence and addition*).

808. ATTORNMENT TO RECEIVER.

(*Short Style of Cause.*)

I, W.F. of (*residence and addition*) attorn and become tenant to L.M. the receiver appointed in this action for (*describe the property*) as the same is now in my occupation; to hold the same at and under the same rent and subject to the same covenants and conditions as I now hold the same. And I have this day paid to the said L.M. the sum of $———, for and on account and in part payment of the said rent.

Dated the ——— day of ———, 19—.

Witness:

809. ACCOUNT OF RECEIVER

(*Style of Cause.*)

The first account of A.B., the receiver appointed in this cause by an order made in this cause, dated the ——— day of ———, 19—, to receive the rents and profits of the real estate, and to collect and get in the outstanding personal estate of C.D., the testator (*Or, as the case may be*) in this action named; from the ——— day of ———, 19—, to the ——— day of ———, 19—.

REAL ESTATE—RECEIPTS.

No. of Item.	Date when Received.	Tenants' Names.	Description of Premises.	Annual Rent.	Arrears due at ——— 19—.	Amount due at ——— 19—.	Amount Received.	Arrears remaining due.	Remarks.

REAL ESTATE—PAYMENTS AND ALLOWANCES.

No. of Item.	Date of Payment or Allowance.	Names of Persons to whom paid or Allowed.	For what purposes Paid or Allowed.	Amount.	Remarks.

PERSONAL ESTATE—RECEIPTS.

No. of Item.	Date when Received.	Names of Persons from whom Received.	On what Account Received.	Amount Received.

PERSONAL ESTATE.—PAYMENTS AND ALLOWANCES.

No. of Item.	Date when Paid or Allowed.	Names of Persons to whom Paid or Allowed.	For what Purpose Paid or Allowed.	Amount Paid or Allowed.

SUMMARY.

Amount of balance due from receiver on account of real estate on last account .....$
Amount of receipts on the above account of real estate .....$

Balance of last account paid into Court.....$
Amount of payments and allowances on the above account of real estate .....
Amount of receiver's costs of passing this account as to real estate .....

$
$
Balance due from receiver on account of real estate...$

Amount of balance due from receiver on last account of personal estate .....$
Amount of receipts on the above account of personal estate .....

Balance of last account paid into Court.....$
Amount of payments and allowances on the above account of personal estate .....
Amount of receiver's costs of passing this account as to personal estate.....

$
$
Balance due from the receiver on account of personal estate .....$

810. RECEIVER'S CERTIFICATE.

Received from ——— of ———, the sum of ——— part of a sum of ——— authorized to be raised by an order of the High Court of Justice dated the ——— day of ———, and made in an action of ——— under which order every part of the said sum of ——— is to rank pari passu as a first charge upon the assets of the said Company comprised in or charged by a certain trust deed for securing debenture stock of the said Company dated the ——— day of ———, and referred to in the said order, in priority to the holders of the said debenture stock and their trustees, and is to bear interest commencing as to the said sum (the receipt whereof is hereby acknowledged) from the date hereof, at the rate of ———, until repayment, and in addition to such interest each lender of part of the said sum of ———, is to be entitled to receive on being

paid off a bonus as follows, viz., on payment off within one year from his advance a bonus of ——— on the amount advanced or on payment off at any subsequent time a bonus of ——— on the same amount, and any part of the said ——— may be paid off at any time on the terms aforesaid. The said charge will be by way of floating security upon the said assets as aforesaid as the undersigned does not undertake any personal liability to pay any part of the said sum of ———, or any such interest or bonus as aforesaid.

Dated the ——— day of ———.

Receiver and Manager.

CHAPTER XXXII.

APPEALS.

I. Appeals to a Judge in Chambers.

From Officers in Chambers and Taxing Officers. (*Rules 767, 768.*)

811. NOTICE OF APPEAL

From Officers in Chambers. (*Rule 767.*)

Take notice that a motion will be made on behalf of ——— before the presiding Judge in Chambers (*or* ———) at ———, in the City of ———, on ——— day the ——— day of ——— 19—' at ——— o'clock in the forenoon, or so soon thereafter as the motion can be heard, by way of appeal from the order herein of the (Master in Chambers, Master in Ordinary *or* local Judge for the County of ———, *or* Local Master at ———, in Chambers), dated the ——— day of ——— 19—, and to reverse the same, and for an order that ———, (*or* to vary the same by ———,) or for such other order as may seem just.

And take notice that in support of such motion will be read the affidavits of ——— this day filed (*or* filed the day of ——— 19—), and the exhibits therein referred to and the (*naming any other affidavits intended to be used or other papers, such as the writ, pleadings, orders, &c.*)

Dated this ——— day of ——— A.D. 19—.

To ———

Solicitor for the ———

Solicitor for the ———

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812. NOTICE OF APPEAL FROM TAXING OFFICER.

Party and Party Taxation. (*Rule 774.*)

By way of appeal from the certificate of ——— taxing officer at ——— (*or* one of the taxing officers of the Supreme Court of

Judicature) dated the ——— day of ——— 19—, on the taxation of the costs of the ——— under the judgment (*or*, order) herein dated the ——— day of ——— 19—, on the grounds following (*stating them*); (*or* on the grounds set forth in the objections to the ruling of the said taxing officer brought in before him on the said taxation) and for such order in respect to the premises as may be just.

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813. ORDER ON APPEAL FROM LOCAL TAXING OFFICER.

Referring the Bill for Revision and Report to a Taxing Officer at Toronto.

It is ordered that the said bill be and the same is hereby referred to Mr. ———, one of the taxing officers at Toronto, for revision and report upon the items therein in question upon this motion, and that this motion do stand adjourned until the first day on which a Judge sits in Chambers after the date of the certificate of the said taxing officer as to the matters hereby referred to him.

II. APPEALS TO A JUDGE IN COURT.

From Reports of Masters, Referees and Taxing Officers. (Rules 768-776.)

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814. NOTICE OF APPEAL.

From Report of Master or Referee. (Rule 771.)

Take notice that the Court will be moved on behalf of the above-named ——— at Osgoode Hall, Toronto, on ———, the ———day of ———, 19—, at ten o'clock in the forenoon, or so soon thereafter as counsel can be heard, by way of appeal from the report (*or* Certificate) of the Master of the Supreme Court of Judicature at ——— (*or* of Mr.———, Official *or* Special Referee), dated the ——— day of ———, 19—, and filed the ——— day of ———, 19—, for an order setting aside the said report (*or* certificate) (*or* to vary or refer back the said report, or for such other order as may be just, *or as the case may be*), upon the following among other grounds:

1. &c. (*set out briefly the grounds of appeal.*)
2. &c.

And take notice that upon and in respect of such appeal will be read the pleadings and judgment (*or* order of reference) herein, the said report (*or* certificate) and the affidavits, depositions and other proceedings filed and taken in the office of the said Master (*or* Referee) upon the reference to him herein.

Dated the ——— day of ———, A.D. 19—.

To ———, Solicitor for the ———.

Solicitor for the ———.

815. NOTICE OF APPEAL FROM TAXING OFFICER.

Solicitor and Client Taxation. (*Rule 773.*)

by way of appeal from the certificate of ———, dated the ——— day of ———, 19—, on the taxation of the costs of the ——— under the judgment (*or* order) herein dated, the ——— day of ———, 19—, on the grounds following (*stating them*); (*or* on the grounds set forth in the objections to the ruling of the said taxing officer, brought in before him on the said taxation), and for such order in respect to the premises as may be just.

816. NOTICE OF MOTION FOR LEAVE TO APPEAL.

on behalf of the (plaintiff) for on order granting leave to appeal from the report of the Master (*or* Official Referee) at ———, dated the ——— day of ———, 19—, and filed on the ——— day of ———, notwithstanding that the same has been confirmed, on the following grounds (*stating the grounds of appeal.*)

817. PRÆCIPE TO SET DOWN APPEAL.

(*Rule 771.*)

(*Court and Style of Cause.*)

Set down this appeal from the report (order *or* judgment) of ——— in this action, dated the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Solicitor for ———.

818. ORDER DISMISSING APPEAL.

The appeal of the defendant from the report of the Master of the Supreme Court of Judicature at ———, dated the ——— day of ———, 19—, coming on to be heard before this Court on the ——— day of ——— instant, upon the grounds set out in the notice of appeal, in presence of counsel for the plaintiff and for the defendant, upon opening of the matter, upon hearing read the judgment herein, the said report, the evidence taken before the said Master, and the pleadings and proceedings in this action, and upon hearing counsel aforesaid:

1. This Court doth order that the said appeal be and the same is hereby dismissed with costs to be paid by the defendant to the plaintiff forthwith after taxation thereof.

819. ORDER REFERRING REPORT BACK

To Master for Amendment.

Upon motion made this day to this Court by Mr. ——— of counsel for the defendant, by way of appeal from and to set aside the report herein of the Master of the Supreme Court of Judi-

cature at ———, dated the ——— day of ———, 19—, whereby he found that the bequest of $———, made by X.Y., deceased, to the said defendant has been paid by the discharging of a certain mortgage made by the said defendant to the said deceased for the sum of $———, or for an order referring the said report back for amendment, or for such further or other order as to the Court should seem meet, in presence of counsel for both parties, upon hearing read the judgment of reference herein, the said report, and the evidence taken by the said Master, and upon hearing what was alleged by counsel aforesaid:

1. This Court doth order that the said report be and the same is hereby referred back to the said Master for further enquiry and report in regard to the bequest to the said defendant and the mortgage given by him to the testator, both of which are referred to in the said report.

2. And this Court doth further order that the costs of this appeal be ———.

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820. ORDER DIRECTING FURTHER EVIDENCE.

(Rules 771 and 498.)

Upon motion made unto this Court this day by Mr. ——— of counsel for the plaintiff, in presence of counsel for the defendant, by way of appeal from the report of the Local Master of this Court at ——— made herein on the ——— day of ——— last, upon hearing read the proceedings taken and the judgment and the said report, and upon hearing what was alleged by counsel aforesaid:

1. This Court doth order that the said appeal be and the same is hereby adjourned to be heard before this Court at the next sittings of this Court to be holden at the ——— of ——— for the trial of actions without a jury, and upon such hearing all parties are to be at liberty to adduce such further evidence as they may be advised touching the matters in question upon the said appeal.

III. Appeals to a Divisional Court.

(1.) *From County, Surrogate or Division Courts.*

County Courts Act,
10 Edw. VII. (1910), Ch. 30, Sec. 38-40.

Surrogate Courts Act,
10 Edw. VII. (1910), Ch. 31, Sec. 34.

Division Courts Act,
10 Edw. VII. (1910), Ch. 32, Secs. 125-129.
(Rule 793.)

821. NOTICE OF APPEAL.

IN THE COUNTY COURT OF THE COUNTY OF ——— (*or as may be.*)

Between A.B., Plaintiff,

and

C.D., Defendant.

Take notice that the Court will be moved on behalf of the above-named plaintiff at the next sittings of the Divisional Court of the High Court of Justice to be holden at Osgoode Hall in the City of Toronto on ——, the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon or so soon thereafter as counsel can be heard, by way of appeal from the judgment pronounced at the trial of this action on the ——— day of ———, 19—, by the Judge of the County (*or* Surrogate) Court of the County of ———sitting without a jury, dismissing this action with costs, and for an order to set aside the said judgment and to assess the damages and enter judgment for the plaintiff, or for a new trial (*or as the case may be*), or for such other order as to the Court may seem just, upon the following among other grounds:—(*Here set out grounds in numbered paragraphs.*)

And take notice that in support of said motion will be read, &c.

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822. CERTIFICATE OF COUNTY JUDGE.

(*Rule 793.*)

In the County Court of the County of ———.

Between A.B., Plaintiff,

and

C.D., Defendant.

I, ——— (senior) Judge of the County Court of the County of ———, pursuant to section 42 of "The County Courts Act," and Consolidated Rule 793 of the Rules of the Supreme Court of Judicature, at the request of the ———, and for the purpose of an appeal by him from the judgment pronounced (*or*, order made) by me herein, dated the ——— day of ———, 19—, hereby certify that annexed hereto are the following papers and documents, viz.:—

1. The original pleadings in this action.
2. *Any notices of motion and orders affecting the questions raised by the appeal.*
3. The judgment (*or*, order) appealed from, dated, &c.
4. My written opinion or reasons for pronouncing the said judgment (*or*, making the said order).
5. *Where a trial has been had*: The notes taken at the trial by me (*or*, a stenographer) of the evidence, and of any objections and exceptions thereto and of the rejection of any evidence (and of my charge to the jury *where the trial was by jury*).

6. The exhibits put in at the trial;

which said papers and documents constitute in my opinion all the papers and documents in this action affecting the questions raised by the said appeal and necessary for the full understanding thereof.

Dated this ——— day of ———, 19—.

Judge of the County Court of ———.

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823. PRÆCIPE TO SET DOWN APPEAL.

(*Rule 788.*)

(*Court and Style of Cause.*)

Set down this appeal from the order (*or* judgment) of ———, in this action, dated the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Solicitor for ———.

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824. ORDER ON APPEAL

From County, Surrogate or Division Court.

IN THE HIGH COURT OF JUSTICE.

The Hon. the Chancellor, ———,
The Hon. Mr. Justice, ———,
The Hon. Mr. Justice, ———.

———day, the ——— day of ———, 19—.

In the matter of an action pending in the County (*or* Surrogate) Court of the County of ———, *or* in the ——— Division Court of ———,

Between M.C., Plaintiff,
and
D.M., Defendant.

1. This is to certify that upon motion made unto this Court on the ——— day of ———, 19—, by counsel for the defendant, by way of appeal from the judgment pronounced by His Honour ———, Judge of the County (*or* Surrogate) Court of the County of ———, on the ——— day of ———, 19—, herein in presence of counsel for the plaintiff, and upon hearing read the pleadings, the evidence adduced at the trial and the judgment aforesaid, certified to this Court, and upon hearing what was alleged by counsel aforesaid (and judgment upon the motion having been reserved until this day);

2. This Court doth order that the said appeal be and the same is hereby allowed, and that the judgment of the ——— day of ———, 19—, pronounced by the Judge of the County (*or* Surrogate) Court of the County of ——— be and the same is hereby set aside.

3. And this Court doth further order that judgment be entered in the said County Court declaring ———;

(*Or*, that judgment be entered in the said County Court, as follows:—(*setting it out*)).

4. And this Court doth not think fit to make any order as to the costs of this appeal (*or as may be*).

(2.) *From a Judge in Chambers or in Court.*
(*Rules 772 and 777.*)

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825. NOTICE OF APPEAL.

Take notice that a motion will be made at the next sittings of the Divisional Court (commencing on the ——— day of ——— next) at Osgoode Hall, in the City of Toronto, at the hour of ten o'clock in the forenoon, or so soon thereafter as the motion can be heard on behalf of the defendant, by way of appeal from the order pronounced herein by the Hon. Mr. Justice ———, dated the ——— day of ———, 19—, granting an injunction restraining the defendant from (*or as the case may be*), and for an order dismissing the motion made for the said order on the following among other grounds:—(*stating them*).

And take notice that in support of said motion will be read, &c.

---

826. SUPPLEMENTARY NOTICE OF MOTION.

Take notice that upon the hearing of the appeal herein by the Divisional Court a motion will be made for an order allowing the Defendant leave to amend his Statement of Defence by setting up that he was induced to enter into the contract in question herein between the parties by fraud and misrepresentation, and also for an order allowing the Defendant to counter-claim against the plaintiff for moneys due and owing him by the plaintiff, and also for leave to read the affidavit on the said appeal, a copy of which is served herewith (*or as the case may be*), and for such further and other order as to the said Court may seem meet.

---

827. NOTICE OF MOTION FOR LEAVE TO APPEAL

From Judge in Chambers.

Take notice that by special leave this day obtained from the Honourable ———, this Court will be moved on behalf of ——— at the sitting of the Divisional Court of the High Court of Justice, at Osgoode Hall, in the City of Toronto on ———day, the ——— day of ———, 19—, at the hour of eleven o'clock in the forenoon, or on such day and at such hour thereafter as counsel can be heard, by way of appeal from the judgment or order pronounced in this matter in Chambers by the Honourable Mr. Justice ——— on the ——— day of ———, 19—, to set aside the said judgment or order

and to dismiss the motion upon which the said judgment or order was made, with costs, or for such other order as to the Court may seem just upon the following among other grounds:

1. That the said judgment or order appealed from is wrong in law.

2. That under the statutes relating to, &c.

And on other grounds sufficient to support the said appeal.

And take notice that upon the said appeal will be read the judgment or order of the Honourable Mr. Justice ———, and his reasons therefor, and the affidavits filed and the order and proceedings in this matter.

---

828. ORDER FOR LEAVE TO APPEAL.

Upon motion made this day unto this Court on behalf of ———, and upon hearing read the order made herein by the Honourable Mr. Justice ——— upon the ——— day of ———, 19—, and upon hearing counsel for the applicant.

1. This Court doth order that ———, be allowed and he is hereby allowed, to appeal to a Divisional Court from the said Order made herein by the Honourable Mr. Justice ——— upon the ——— day of ———, 19—.

2. And this Court doth further order that the costs of incidental to this motion be costs in the appeal to the successful party upon the said appeal.

---

829. ORDER DISMISSING APPEAL.

Upon motion made unto this Court on the ——— day of ———, 19—, on behalf of the above named ——— in presence of counsel for ——— by way of appeal from and to set aside the order made herein by the Honourable Mr. Justice ——— on the ——— day of ———, 19—, upon hearing read the order aforesaid and the affidavits and papers filed and read on the application therefor, and upon hearing what was alleged by counsel aforesaid this Court was pleased to direct that the matter of the said appeal should stand over for judgment and the same having come on this day for judgment:

1. This Court doth order that the said appeal be and the same is hereby dismissed.

2. And this Court doth further order that the costs of the said appeal be paid by ——— forthwith after taxation thereof.

---

830. ORDER ALLOWING APPEAL ON TERMS.

1. This Court doth order that upon the payment into Court by the defendant to the credit of this action of the amount of the judgment herein, together with interest thereon from the date of the said judgment to the date of payment into Court, subject to the

further order of this Court, within ten days from the date of this order, the said judgment be and the same is in that event set aside.

2. And this Court doth further order that in that event the defendant be and he is hereby allowed to amend his Statement of Defence and to file a counter claim therewith.

3. And this Court doth further order that in default of such payment into Court within the time above limited the said appeal and application to amend be and the same is in that event hereby dismissed.

4. And this Court doth further order that the defendant do pay to the plaintiff his costs of this appeal and of the said motion to amend forthwith after taxation thereof.

(3.) *From Verdicts and Judgments.* (*Rules 778-792.*)

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831. NOTICE OF APPEAL.

Take notice that a motion will be made on behalf of the above named defendant at the Sittings of the Divisional Court, commencing on the ——— day of ———, 19—, at Osgoode Hall, Toronto, at the hour of 11 o'clock in the forenoon or so soon thereafter as the motion can be heard by way of appeal from the judgment of the Honourable Mr. Justice ——— delivered herein on the ——— day of ———, 19—, and for an order setting aside the said judgment and directing that judgment be entered for the defendant dismissing the action (and on its counterclaim for $———) with costs upon the following amongst other grounds: (*set out grounds, e.g.*)

1. That the said judgment is against law and evidence and the weight of evidence.

2. That there was no negligence on the part of the defendant.

3. That the plaintiff was guilty of such negligence as would disentitle it to succeed in the action.

4. That the flooring of the bridge was broken by reason of the plaintiff not having laid down planks thereon as provided by the Statute.

5. That the breaking of the flooring was the cause of the accident.

6. That the bridge, as found by the learned trial Judge, was adequate and sufficient for ordinary traffic and that being so the plaintiff having subjected the bridge to extraordinary traffic, such as the traction engine, was bound either to strengthen the bridge or to lay down thereon planks before attempting to cross the same.

And take notice that on and in support of the said motion will be read the pleadings in the action, the evidence taken at the trial and the said judgment and such other material as counsel may advise.

832. NOTICE OF MOTION FOR A NEW TRIAL

Where Action Tried with a Jury.

Take notice that a motion will be made at the next sittings of a Divisional Court (commencing on or about ———) at Osgoode Hall, Toronto, on behalf of the (plaintiff) to set aside the judgment pronounced herein by the Hon. Mr. Justice ——— at the trial of this action, dated the ——— day of ———, 19—, and for judgment herein for the (plaintiff) or for a new trial, on, amongst others, the grounds following:

(1) That the learned Judge at the trial erroneously rejected (*or*, admitted) the evidence of ———.

(2) That the learned Judge at the trial misdirected the jury in ———.

(3) That the said judgment was contrary to the evidence (*or* against the weight of evidence).

(4) That the finding of the jury (*or*, the finding of the jury upon the question, &c. (*as the case may be*), was contrary to the evidence or against the weight of evidence, and contrary to the direction of the Judge and perverse).

---

833. NOTICE OF APPEAL.

Jury Failing to Agree.

Take notice that this Court will be moved on behalf of the plaintiff at the next sitting of the Divisional Court of the High Court of Justice, at Osgoode Hall, in the City of Toronto, beginning on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as counsel can be heard, for an order that judgment in this action be entered in favor of the plaintiff for the amount of the plaintiff's claim with costs, notwithstanding the failure of the jury at the trial of this action to agree upon a verdict, upon the following among other grounds:—

1. Upon the evidence adduced at the said trial the plaintiff is in law entitled to recover the amount of his said claim.

2. There was no evidence upon which the jury could properly find that the goods delivered to the defendant, for the price of which this action is brought, were so delivered to him as a gift.

3. The plaintiff is entitled to recover in the action unless the defendant establishes that the intention of A.B. whose estate the plaintiff represents in sending the said goods to the defendant, and the defendant's intention in receiving them, was that they should not be paid for, and the learned judge at the trial should have so charged the jury.

4. Upon the facts proved in evidence no jury would be justified in finding a verdict adverse to the plaintiff.

Or for such further or other order as to the said Court shall seem right.

834. ORDER OF DIVISIONAL COURT

Varying Judgment.

Upon motion made unto this Court this day (*or* on the ——— day of ———, 19—), on behalf of the defendant by way of appeal from the judgment of the Hon. Mr. Justice ——— made on the ——— day of ———, 19—, (*or* the direction of the Hon. Mr. Justice ——— made, &c., to enter judgment) herein, in presence of counsel for all parties (*or as may be*); and upon hearing read the pleadings, the evidence adduced at the trial, and the judgment (*or* direction) aforesaid, and upon hearing what was alleged by counsel aforesaid, (*where so, add*: and judgment upon the motion having been reserved until this day:)

1. This Court doth order that the said judgment (*or* direction to enter judgment) be varied, and that the judgment of the Court as varied be as follows:—

(1) This Court doth order and adjudge that the plaintiffs do recover from the defendants the sum of $——— and their costs of this action, including the costs of this appeal, payable forthwith after taxation thereof.

(2) And this Court doth further order and adjudge, &c.

---

835. ORDER ALLOWING APPEAL.

1. This Court doth order that the said judgment be and the same is hereby vacated, and set aside.

2. And this Court doth order and adjudge that this action be and the said is hereby dismissed.

3. And this Court doth further order and adjudge that the plaintiff do pay to the defendant his costs of this action, and of this appeal, (save and accept the costs of the former appeal to this Court and of the last trial, and the costs disposed of by the order of the Divisional Court (of the ——— day of ———, 19—), forthwith after taxation thereof.

4. And save as aforesaid this Court doth not see fit to make any Order as to costs.

---

836. ORDER DISMISSING APPEAL.

1. This Court doth order that the said appeal be and the same is hereby dismissed with costs to be paid by the defendants to the plaintiffs forthwith after taxation thereof.

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837. ORDER ALLOWING APPEAL IN PART.

Without Costs.

1. This Court doth order that the said appeal be and the same is hereby allowed in so far as the said judgment relates to ———.

2. And this Court doth further order that the said judgment be and the same is hereby varied and as varied be as follows:—

3. And this Court doth further order that there be no costs of this appeal to any of the parties hereto.

838. NOTICE OF MOTION BY WAY OF CROSS APPEAL.

Take notice that upon hearing of the (plaintiff's) appeal from the (judgment pronounced at the trial of this action on the day of ——— last) the (defendant) will contend and insist that the said (judgment) should be vacated, and that (this action should be ordered to be dismissed with costs to be paid by the plaintiff to the defendant) and that the (plaintiff) should be ordered to pay the costs of this motion, and further take notice that the (defendant) will not prosecute this cross-appeal unless the (plaintiff's) appeal is proceeded with.

839. NOTICE OF MOTION TO STAY PROCEEDINGS

Pending Appeal from Judgment.

On behalf of the (defendant C.D.) for an order staying all further proceedings under the judgment (*or*, order) made in this cause on the ——— day of ——— last, pending the appeal from the said judgment.

840. NOTICE OF MOTION TO EXTEND TIME

For Appealing.

On behalf of the (defendant) for an order extending the time for appealing to the Divisional Court (*or*, to the Court of Appeal) from the judgment (*or*, order) pronounced herein by (the Master in Chambers *or* the Hon. Mr. Justice ——— *or as the case may be*) on the ——— day of ———, 19—, on the grounds that (*state the grounds*).

IV. Appeals to the Court of Appeal.

(*Rules 798-830.*)

841. NOTICE OF APPEAL TO COURT OF APPEAL.

(*Rule 799.*)

In the High Court of Justice.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant.

Take notice that C.D. the above-named appellant intends to appeal and hereby appeals from the judgment, (order *or* decision),

pronounced in this action by a Divisional Court of the High Court of Justice (*or* by the Hon. Mr. Justice ———) on the ——— day of ———, 19—, whereby (*stating shortly the effect of the judgment, &c., appealed from*).

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842. NOTICE OF APPEAL

By One of Two or More Defendants.

IN THE COURT OF APPEAL FOR ONTARIO.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant,
and
E.F. and G.H., Defendants.

Take notice that C.D. the above named appellant, &c.

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843. NOTICE OF MOTION FOR LEAVE

To Appeal to the Court of Appeal.

Take notice that by special leave of the Honourable the Chief Justice of the ——— this day obtained, a motion will be made on behalf of ———, before the present sittings of the Divisional Court of the High Court of Justice at Osgoode Hall, in the City of Toronto, on ——— the ——— day of ———, A.D. 19—, at eleven o'clock in the forenoon or so soon thereafter as counsel can be heard for an order giving leave to appeal to the Court of Appeal from the judgment of the Divisional Court delivered on the ——— day of ———, A.D. 19—, or for such other order as may seem just upon the ground that, &c.

And take notice that in support of such motion will be read the affidavits filed and the other proceedings in this matter, including the judgments of the Honourable Mr. Justice ——— and of the Divisional Court.

Dated the ——— day of ———, A.D. 19—.

---

844. ORDER GIVING LEAVE TO APPEAL

Direct to Court of Appeal from Judge at Trial.

IN THE COURT OF APPEAL FOR ONTARIO.

The Honourable Mr. Justice ———, In Chambers. } ——— day, the ——— day of ———, 19—.

In the Matter of a Proposed Appeal in an Action in the High Court of Justice.

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the defendant for an order allowing the defendant to appeal direct to the Court of Appeal for Ontario, from the Judgment of the Honorable Mr. Justice ———, delivered on the ——— day of ———, 19—, upon hearing read the affidavit of ——— filed, and upon hearing what was alleged by counsel for both parties, and it appearing that the amount in controversy between the parties exceeds the sum or value of $1,000.00, exclusive of costs, and that therefore an appeal would lie from the judgment of this Court to the Supreme Court of Canada:

1. It is ordered that the defendant be, and he is hereby allowed to appeal from the said judgment direct to the Court of Appeal for Ontario.

2. And it is further ordered that the costs of and incidental to this application be costs in the appeal.

---

845. CONSENT TO APPEAL TO COURT OF APPEAL

From Judge at Trial.

(Court and Style of Cause.)

We hereby consent to an appeal being taken by the above named defendant from the judgment pronounced by the learned Judge on the trial of this action to the Court of Appeal.

Dated at ——— this ——— day of ———, A.D. 19—.

Solicitor for ———.

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846. ORDER FOR LEAVE TO APPEAL

Undertaking as to Costs.

Upon the application of, &c., and the applicants undertaking to pay the costs of the respondent the said ———, of the proposed appeal to the Court of Appeal as between solicitor and client in any event of the appeal.

1. It is ordered that the applicants be at liberty to appeal to the Court of Appeal from the said judgment of the Divisional Court of the ——— day of ———, 19—, upon the sole question of, &c.

2. And it is further ordered that the costs of such appeal to the Court shall be costs to the respondent in any event as between solicitor and client.

3. And it is further ordered that the costs of this application be costs in the said appeal.

---

847. ORDER FOR LEAVE TO APPEAL

Important Questions of Law.

Upon the application of, &c., and it appearing that important questions of law and the construction of Statutes of the Province of Ontario are involved in this action.

1. It is ordered that the defendant be and he is hereby at liberty to appeal to the Court of Appeal from the said Judgment delivered herein by the Divisional Court.

2. And it is further ordered that the costs of this application be costs in the said appeal.

---

848. ORDER GIVING LEAVE TO APPEAL

And Dispensing with Security.

Upon the application of ———, the above named appellant, and upon reading the consent of the solicitors for both parties:

1. It is ordered that the said appellant have leave to appeal to this Court from the Judgment pronounced in this action by the Honourable Chief Justice ——— on the ——— day of ———, 19—, whereby he awarded the plaintiff one hundred and fifty dollars damages and ordered the defendant to, &c.

2. It is further ordered that the giving of security by the said appellant upon the said appeal be, and the same is hereby dispensed with.

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849. BOND ON APPEAL TO THE COURT OF APPEAL

Where Security is Required. (*Rule 830.*)

Know all men by these presents that we (*naming all the obligors with their places of residence and additions*), are jointly and severally held and firmly bound unto (*naming the obligees with their places of residence and additions*), in the penal sum of ——— dollars, for which payment, well and truly to be made, we bind ourselves, and each of us binds himself, our, and each of our heirs, executors and administrators, respectively, firmly by these presents.

Dated this ——— day of ———, 19—.

Whereas (*the appellant*) complains that, in the giving of a certain judgment in a certain suit in His Majesty's High Court of Justice for Ontario, between (*naming the parties to the cause*) manifest error hath intervened, wherefore (*the appellant*) desires to appeal from the said judgment to the Court of Appeal.

(*Where it is desired also to give security in order to stay execution insert,* And whereas the said (*appellant*) is desirous of having the execution of the said judgment stayed pending the appeal.)

Now the condition of this obligation is such, that if (*the appellant*) do and shall effectually prosecute such appeal, and pay such costs and damages as shall be awarded, in case the judgment aforesaid to be appealed from shall be affirmed or in part affirmed, [*In order to stay execution* (*See Rule 827*) *where the judgment directs sale or delivery of possession of property add,* and during the possession of the property in question in the said action (*or otherwise describing it*) by (*the appellant*) he shall not commit or suffer to

be committed any waste on the property, and that if the judgment be affirmed, or in part affirmed, he shall pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof (*add, if ordered, in case the judgment is for the sale of the property and payment of any deficiency arising upon the sale,* and that in case of any deficiency arising upon a sale as directed by the said judgment he shall pay the amount of the deficiency) or the part thereof as to which the judgment may be affirmed if it be affirmed only as to part] (*add, if ordered, where the judgment directs the payment of money,* and shall pay the amount by said judgment directed to be paid, either as a debt or for damages or costs or the part thereof as to which the judgment may be affirmed, if it be affirmed only as to part, and all damages and costs awarded against (*the appellant*) on such appeal) (*where the judgment directs the delivery of documents or personal property add,* and shall obey the order to be made by the Court of Appeal) then this obligation shall be void otherwise to remain in full force.

(*Where the security is given pursuant to any order, the bond will recite the order and the condition will be varied if necessary according to the terms of the order.*)

Signed, sealed and delivered,
in the presence of

Note.—Affidavit of execution must be annexed to and filed with the bond.

---

850. AFFIDAVIT OF JUSTIFICATION

To be Annexed to the Bond (Rule 830.)

IN THE HIGH COURT OF JUSTICE.

Between A.B. (Respondent), Plaintiff,
and
C.D. (Appellant), Defendant.

I, E.F., of, &c., make oath and say as follows:—

1. I am one of the sureties to the annexed bond.

2. I am a resident inhabitant of Ontario, residing at ———, and am a householder in, (*or* a freeholder in ———).

3. I am worth and own property to the amount of ———, (*the sum mentioned as the penalty, or such sum as the deponent is bound in,*) over and above what will pay all my debts (*if surety in any other matter add* and every other sum for which I am now liable or for which I am bail or surety.)

4. I am not bail or surety for any plaintiff or defendant except in this action (*or if bail or surety in any other cause or matter add:* and except for G.H. in an action in the High Court in which X.Y. is plaintiff and G.H. is defendant in the sum of $——— *or as the*

case may be, specifying the several causes or matters with the Court in which each is, and the sums in which the deponent is bail or surety).

5. And I, J.H., of ———, make oath and say as follows:—(*in similar terms as the case may require; or separate affidavits may be made.*)

The above-named deponents, E.F. & J.H., were sworn, &c., the ——— day of ———, 19—, before me.

A Commissioner, &c.

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851. NOTICE OF FILING BOND.

IN THE HIGH COURT OF JUSTICE.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant.

Take notice that we have to-day filed in the Central Office of this Court at Osgoode Hall, Toronto (*or as the case may be*), a bond for security for the costs of the appellant's appeal to the Court of Appeal.

Dated the ——— day of ———, 19—.

To ———, Respondent's solicitor.

Appellant's solicitors.

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852. NOTICE OF PAYMENT INTO COURT

As Security for Costs.

(*Style of Cause.*)

Take notice that we have this day paid into Court to the credit of this cause the sum of two hundred dollars as security for costs on the defendant's appeal from the Divisional Court to the Court of Appeal for Ontario.

Dated at ——— this ——— day of ———, 19—.

To ———, Solicitor for ———.

Solicitors for ———.

853. ORDER ALLOWING BOND AND CONSOLIDATING APPEALS.

IN THE COURT OF APPEAL FOR ONTARIO.

The Honourable the Chief Justice of Ontario, In Chambers. } ———, the ——— day of ———, 19—.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant,
and
E.F. and G.H., Defendants.

And Between A.B., (Appellant) Plaintiff,
and
E.F. and G.H., (Respondents) Dfts.
and
C.D., Defendant.

Upon the application of the above named A.B. (Appellant) plaintiff in presence of counsel for the defendants for an order allowing the bond for security for costs in the appeal secondly above mentioned and for an order consolidating the said appeals upon hearing read the notice of motion and the affidavits of ——— and ——— filed and the order of the Divisional Court dated the ——— day of ———, 19—, and the pleadings and proceedings in the said action and the bond for security for costs filed by the said plaintiff (appellant).

1. It is ordered that the said bond be and the same is hereby allowed.

2. And it is further ordered that the said appeals be consolidated and that the appellant in the appeal firstly above mentioned do print the appeal book to be used in the said consolidated appeal which shall contain in addition to the evidence and material necessary to be printed in the appeal firstly above mentioned the reasons for and against appeal in the appeal secondly above mentioned together with a copy of this order.

3. And it is further ordered that the expense of the extra printing occasioned by the appeal secondly above mentioned be reserved to be disposed of upon the hearing of the said appeal or upon subsequent application.

4. And it is further ordered that the costs of this motion be costs in the secondly above mentioned appeal.

854. ORDER DISPENSING WITH PRINTING

Of the Evidence.

IN THE COURT OF APPEAL FOR ONTARIO.

The Honourable Mr. Justice ———, In Chambers. } ——— day, the ——— day of ———, 19—.

In the Matter of an Action in the High Court of Justice.

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the defendant upon hearing read the judgment appealed from and the consent of the solicitors for the plaintiff duly filed and upon hearing counsel for the defendant:—

1. It is ordered that the printing in the Appeal Book of the evidence taken at the trial be and the same is hereby dispensed with, but that the Reasons for Judgment of the learned trial Judge contained at the end of the said evidence also the Reasons (if any) for the Judgment of the said Divisional Court shall be printed in the said book.

2. And it is further ordered that the costs of this application be costs in the said appeal.

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855. ORDER AS TO PRINTING APPEAL BOOK

In Appeals in Two Actions Between the Same Parties.

IN THE COURT OF APPEAL FOR ONTARIO.

The Hon. Mr. Justice ———, In Chambers. } ——— day, the ——— day of ———, A.D. 19—.

In the matter of two certain actions pending in the High Court of Justice.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant.
And Between C.D., (Appellant), Plaintiff,
and
A.B., (Respondent) Defendant.

Upon the application of the appellant in both of the above mentioned actions, and upon hearing read the pleadings and proceedings in the said actions in the court below, and upon hearing read the consents of the solicitors for the respondent in both of the said actions, to an appeal being taken in the first mentioned action, and to an appeal and cross-appeal being taken in the second above mentioned action and counterclaim from the judgments of the Honourable Mr. Justice ———, at the trial of the said actions, dated the ——— day of ———, 19—, to the Court of Appeal, and it appear-

ing that the above mentioned actions were tried together and that the evidence taken and the exhibits filed at the trial relate to both actions, and upon hearing what was alleged by counsel for the appellant, and it appearing that the matter in controversy exceeds the sum of ——— dollars, exclusive of costs, and that an appeal would lie from the judgment of this court to the Supreme Court of Canada.

1. It is ordered that the evidence taken at the trial of the above mentioned actions and counterclaim, and the exhibits filed or such exhibits as are to be printed shall be printed in the appeal book in the first above mentioned action only, and that on the hearing of the appeal in the second above mentioned action and counterclaim, the evidence and exhibits as printed in the appeal book in the first above mentioned action, may be referred to and acted upon in all respects as if the same were printed in the appeal book of the second above mentioned action and counterclaim.

2. And it is further ordered that the costs of this application be costs in the appeal of the second above mentioned action and counterclaim.

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856. ORDER EXTENDING TIME

For Setting Down Appeal.

1. It is ordered that the time for setting down this appeal be extended to the ——— day of ———, A.D. 19—, and that the time for hearing the said appeal be extended to the next sittings of this Court.

2. And it is further ordered that the costs of this motion be costs in the appeal.

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857. DRAFT CASE FOR APPEAL.

(*Style of Cause.*)

Statement of Case.

This is an appeal from the judgment of the Hon. Mr. Justice, ———, pronounced on the ——— day of ———, 19—.

The plaintiff brought this action (*stating concisely the nature of the question raised in the action*).

The action was dismissed with costs and the plaintiff appeals therefrom, and claims (*as may be necessary in the circumstances of the case*).

Pleadings.

It is proposed to set out copies of the pleadings in full.

Evidence.

(As supplied by the reporter.)

Exhibits.

(No. 1, p—— of the evidence.)

(To be set out in full. *Or give such statement of its purport as will be sufficient for the purposes of the appeal.*)

(No. 2, p—— of the evidence.)

The Judge's Written Opinion.

(In full. *Or reference to the report if reported.*)

(Copy as entered, *or if not entered,* as settled by the proper officer.)

Reasons of Appeal.

(*Copy to accompany the case.*)

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858. REASONS FOR APPEAL.

IN THE COURT OF APPEAL FOR ONTARIO.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant.

REASONS FOR APPEAL.

The appellant submits that the judgment appealed from is wrong and should be reversed for the following among other reasons: (*Set forth in numbered paragraphs the points of law intended to be argued with the authorities relied on.*)

Dated the ——— day of ———, 19—.

Solicitor *or* of counsel for appellant.

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859. REASONS AGAINST APPEAL.

IN THE COURT OF APPEAL FOR ONTARIO.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant.

REASONS AGAINST APPEAL.

The respondent submits that the judgment of the learned Trial Judge is right and should be sustained for the following among other reasons: (*Set forth in numbered paragraphs the points of law intended to be argued with the authorities relied on.*)

Dated at ——— this ——— day of ———, 19—.

Solicitor *or* of counsel for respondent.

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860. REASONS FOR APPEAL.

Railway Accident.

The appellants submit the judgment of the learned Trial Judge is wrong, and should be reversed for the following amongst other reasons:

1. That there was no evidence upon which the appellants could be held liable at common law.

2. There was, it is submitted, no breach of the Railway Act as found by the learned Trial Judge.

3. Even if there had been a breach of the Railway Act, which the appellants do not admit but deny, such breach, it is submitted, was not the cause of the accident.

4. The appellants admitted liability under The Workmen's Compensation for Injuries Act, and brought $1,000 into Court as sufficient to satisfy the respondent's claim, and the appellants submit the learned Trial Judge should have held same sufficient.

5. Even if there is liability at common law, which the appellants do not admit but deny, the damages awarded by the learned Trial Judge are excessive, and a new trial, it is submitted, should be ordered in any event.

Dated this ——— day of ———, A.D. 19—.

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861. REASONS FOR APPEAL.

Action to Recover Possession of Land.

The appellant (defendant) says that the judgment of the Divisional Court was wrong, and ought to be reversed, and judgment entered either

(a) For the appellant declaring him entitled to the land in question in fee simple, or (b) for the appellant declaring the land in question to be and to have been part of the leasehold premises and to be included in the covenant for renewal, for the following, amongst other reasons—

1. The action is for use and occupation of (in other words to recover) part of lot 44 in the ———, and the plaintiffs allege, that the defendant had no lease thereof and no license to occupy it. The defendant pleaded the Statute of Limitations and his possession was long enough to extinguish the title of the plaintiffs.

2. It makes no difference, under the Statute of Limitations, whether the parties knew or did not know their rights. Duke of Leeds vs. Earl of Amherst, 2 Ph. at p. 124. Nor does it make any difference why or under what impression possession was taken, so long as it was taken independently of the owner in fee.

3. The only possible answer to this defence is that the land was occupied as part of the demised premises. The plaintiffs deny this and deliberately took that position in the correspondence (see p. 44 to 51 exhibits), by amendment of the Statement of Claim (see p. 10), and by appealing to the Divisional Court against the judgment of ———, at the trial, holding that the land was occupied as demised land, (see p. ——).

4. If this position is open to the respondents on the facts, then the appellant contends that the land in question being part of the

demised premises ought to be so declared and the judgment for use and occupation since the expiry of the term ought to be reversed.

5. The findings on this are as follows:—

———, J., held that the land was occupied as "a mere extension of the locus of his tenancy; that the defendant took possession of the land as tenant. . . . The defendant must be deemed to have held it during the term as part of his holding" (p. —).

———, J., in the Divisional Court held that he took possession "in contemplation of the lease, and with the idea and purpose of occupying the same as part of the premises to be leased" (. —).

The actual fact is that he began to build on it as a fisherman, thinking he had a right to do so (see p. —— of Evidence and p. ———) and without any reference to a lease. Subsequently, when he got his lease, he thought it covered this land (same page —). Therefore Dixon vs. Baty, L.R. 1 Ex. 259 applies exactly.

6. If the above findings can be supported, though they are directly in face of the claim of the plaintiffs, then the defendant submits that the judgment was wrong in holding that though the land was part of the demised premises for twenty-one years, it ceased to be so at the end of the term. This is directly contrary to White vs. Wakley, 26 Beav. 17, where it is said that no limit can be placed upon the duration of the right respecting the addition. It is either part of the demised premises or not part. If a part, then it is governed by all the covenants.

———, J., attempts to distinguish this case on the ground that there was an assent to the occupation of the addition. If the judgment of the Court below is correct, that the land was to be treated as part of the demised premises during the term, that implies assent. If there was no assent, then there was no contract of demise, and the Statute of Limitations applies. Attorney-General vs. Tomline, 15 Ch. D. 150.

There is no middle course. If the defendant took possession without the assent of the plaintiffs, there is no presumption that he held only during the term, or for the landlord's benefit. Hastings vs. Sadler, 79 L.T. 365; Tabor vs. Godfrey, 64 L.J.Q.B. 245.

7. The judgment given that the plaintiffs are not entitled to recover for use and occupation during the term, can only be supported on the ground that the land was intended to be part of the demise. And if part of the demise, then the covenant to renew must apply to it.

8. It is true that, if part of the demise, it must be surrendered when the lease comes to an end. But the lease is perpetually renewable, and is not at an end, and if the land in question was part of the demised land, and the lease is to be renewed, it must be renewed for the whole.

862. REASONS AGAINST APPEAL

Action for Services.

1. The evidence disclosed that the services sued for in this action were performed by the plaintiff at the request of the appellant who received and accepted the benefit thereof.

2. The order for the work in question was given by the appellant's husband who was the duly authorized agent of the appellant in that behalf and the appellant subsequently by her conduct ratified the act of her husband in so employing the plaintiff.

3. In fixing the amount of the plaintiff's claim the learned judge practically accepted the views of the defendant's witnesses, who admitted that the plaintiff's charges were reasonable and there can be no question that the plaintiff is entitled to the sum awarded.

4. For the reasons given in the judgment of the learned Trial Judge and by the Divisional Court.

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863. PRÆCIPE TO SET DOWN APPEAL.

(*Rule 800.*)

(*Court and Style of Cause.*)

Set down this appeal from the order (*or* judgment) of ——— in this action dated the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Solicitor for ———.

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864. NOTICE OF ARGUMENT OF APPEAL.

(*Rule 811.*)

IN THE COURT OF APPEAL FOR ONTARIO.

Between A.B., (Respondent) Plaintiff,
and
C.D., (Appellant) Defendant.

Take notice that the appeal herein will be heard at the sittings of the Court of Appeal which commence on ——— day the ——— day of ———, 19—.

To ——— Solicitor for Respondent.

Solicitor for Appellant.

865. CERTIFICATE OF JUDGMENT

Dismissing Appeal.

IN THE COURT OF APPEAL FOR ONTARIO.

———day the ——— day of ——— 19—.

Present: The Hon. The Chief Justice of Ontario,
The Hon. Mr. Justice ———,
The Hon. Mr. Justice ———,
The Hon. Mr. Justice, ———, and
The Hon. Mr. Justice ———.

Between A.B., (Appellant) Plaintiff,
and
C.D. and E.F., (Respondents) Defendants.

This is to certify that the appeal of the above-named appellant from the judgment of the Honourable Mr. Justice ——— one of the Justices of the High Court of Justice for Ontario, pronounced on the ——— day of ———, 19—, having come on to be argued before this Court on the ——— day of ———, 19—, whereupon and upon hearing counsel as well for the appellant as the respondents this Court was pleased to direct that the matter of the said appeal should stand over for judgment; and the same having come on this day for judgment: It was ordered and adjudged that the said appeal should be and the same was dismissed with costs to be paid by the appellant to the respondents forthwith after taxation thereof.

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866. ORDER ALLOWING APPEAL

And Directing Reference.

(Formal Parts.)

It was ordered and adjudged that the said appeal should be and the same was allowed with costs to be paid by the respondents to the appellant forthwith after taxation thereof.

And it was further ordered and adjudged that the judgment entered in the Court below in favor of the respondents should be and the same was set aside, and that judgment should be entered in the action in favor of the plaintiff in the words and figures following, that is to say:

1. This Court doth declare, &c.

2. And this Court doth further order and adjudge that the defendants and each of them, their and each of their servants, agents and workmen, be and they are hereby respectively restrained and enjoined from, &c.

3. And this Court doth further order and adjudge that, &c.

4. And this Court doth further order and adjudge that it be referred to ———, Esquire, Local Master of the Supreme Court of Judicature at ———, to enquire and state what sum of money

is proper to be awarded to the plaintiff to be paid by the defendants or either of them in respect of any damage sustained by the plaintiff from, &c.

5. And this Court doth further order and adjudge that the defendants do pay to the plaintiff forthwith after the making of the said report by the Master such sum as the said Master shall report is proper to be paid by the said defendants or either of them for such compensation as aforesaid.

6. And this Court doth further order and adjudge that the defendants do pay to the plaintiff forthwith after taxation thereof the costs of this action, including the costs of the said reference and the costs of the application made by the plaintiff prior to the trial of the action for an interim injunction to restrain the infringement of the said ———.

V. Appeals to the Supreme Court of Canada.

Supreme and Exchequer Courts Act, R.S.C. 1906, Ch. 135.

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867. NOTICE OF APPEAL.

In the Court of Appeal for Ontario.

(*Or as the case may be, giving the style of the Court in which the judgment to be appealed from has been rendered.*)

Between A.B., Plaintiff (Appellant *or* Respondent),

and

C.D., Defendant (Respondent *or* Appellant).

(*Or as the case may require.*)

Take notice, that A.B., the above named (plaintiff,) hereby appeals from the (judgment, decree, rule, order, *or* decision) pronounced (*or* pronounced and entered) in this cause (*or* matter) by this Court (*or* by Mr. Justice ———) on the ——— day of ———, 19—, whereby ——— (*as the case may be*).

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868. BOND ON APPEAL TO THE SUPREME COURT.

Know all men by these presents that we, A.B. (*appellant*), of the City of ——— in the County of ———, Merchant, C.D., of the same place, Manufacturer, and E.F., of the same place, Agent, are jointly and severally held and firmly bound unto G.H. (*respondent*) in the penal sum of ——— dollars, for which payment, well and truly to be made we bind ourselves, and each of us, binds himself, our and each of our heirs, executors and administrators, respectively, firmly by these presents.

Dated this ——— day of ———, A.D. 19—.

Whereas a certain action was brought in the High Court of Justice for Ontario by the said A.B. to recover the sum of $——— against the said G.H. (*or as the case may be*):

And whereas judgment was given in the said Court against the said A.B., who appealed from the said judgment to the Court of Appeal for Ontario:

And whereas judgment was delivered in the said action in the said last-mentioned Court on the ——— day of ———, 19—, dismissing the appeal of the said A.B. to the Court of Appeal:

And whereas the said A.B. complains that, in the giving of the said last-mentioned judgment in the said action upon the said appeal, manifest error hath intervened:

Wherefore the said A.B. desires to appeal from the said judgment of the Court of Appeal for Ontario to the Supreme Court of Canada:

And whereas the said A.B. is desirous of having the execution of the said judgment stayed pending the appeal:

Now the condition of this obligation is such that, if the said A.B. do and shall effectually prosecute his said appeal, and pay such costs and damages as may be awarded against him in case the judgment aforesaid to be appealed from shall be affirmed, or in part affirmed, by the Supreme Court of Canada, and shall pay the amount by said judgment of the Court of Appeal directed to be paid, either as a debt or for damages or costs, or the part thereof as to which the judgment may be affirmed, if it be affirmed only as to part, and all damages awarded against the said A.B., on such appeal, then this obligation shall be void, otherwise to remain in full force and effect.

Signed, sealed and delivered
in the presence of

———

869. AFFIDAVIT OF EXECUTION.

Province of ———,
County of ———.
To Wit:

I, X.Y., of the ——— of ——— in the County of ———, and Province of ———, (*occupation*), make oath and say:

1. That I was personally present and did see the within instrument duly signed, sealed and executed by A.B., C.D. and E.F., three of the parties thereto.
2. That the said instrument was executed by the said parties at ———.
3. That I know the said parties.
4. That I am a subscribing witness to the said instrument.

870. AFFIDAVIT OF JUSTIFICATION BY SURETIES.

I, C.D., of the ——— of ———, in the County of ——— and Province of ———, make oath and say, That I am a resident in-

habitant of the Province of ———, and am a freeholder in the ——— of ——— aforesaid, and that I am worth the sum of $—— over and above what will pay all my debts.

And I, E.F., of the ——— of ——— in the County of ———, and the Province of ———, make oath and say, That I am a resident inhabitant of the said Province of ———, and am a freeholder in the ——— of ——— aforesaid, and that I am worth the sum of $—— over and above what will pay all my debts.

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871. **CERTIFICATE OF SECURITY**

Having been Given in Court Below.

IN THE COURT OF APPEAL FOR ONTARIO.

(*Or as the Case May Be.*)

Between A.B., Plaintiff,

and

C.D., Defendant.

This is to certify that the above-named (*appellant*) hath given proper security to the satisfaction of this Court for the due prosecution of the appeal by him the said (*appellant*) to the Supreme Court from the judgment of this Court made in this cause on the ——— day of, &c., and for the payment of such costs and damages as may be awarded against him by the Supreme Court of Canada, by (filing in my office the bond of (himself), and C.D. and E.F., his sureties, in the penal sum of ——— dollars, a true copy of which (bond) is hereunto annexed. (*Or*, by payment into Court to the credit of this action the sum of $500 which sum now remains in this Court as security as aforesaid).

Given under my hand and the seal of the said Court, this ——— day of, &c.

Note.—The bond or other instrument by which security may have been given is to be annexed to the certificate.

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872. **ORDER THAT MONEY PAID INTO COURT**

Be Allowed as Security.

IN THE SUPREME COURT OF CANADA.

On appeal from the Court of Appeal for Ontario (*or as the case may be.*)

——— the ——— day of ———, A.D. 19—.

The Registrar in Chambers (*or* The Honourable Mr. Justice ——— in Chambers).

Between A.B., (Defendant *or* Plaintiff) Appellant;

and

C.D., (Plaintiff *or* Defendant) Respondent.

Upon the application of the above named appellants, and upon hearing what was alleged by counsel for all parties.

It is ordered that the sum of five hundred dollars paid into the Bank of Montreal as appears by deposit certificate No. ———, duly filed, as security that the appellants will effectually prosecute their appeal from the judgment of the Court of (*as the case may be*), dated the ——— day of ———, A.D. 19—, and will pay such costs and damages as may be awarded against them by this Court, be and the same is hereby allowed as good and sufficient security.

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873. CERTIFICATE OF SETTLEMENT OF CASE.

I, the undersigned Registrar (*or* Prothonotary, *or* clerk) of the (*name of court*) do hereby certify that the foregoing printed document from page ——— to page ———, inclusive, is the case stated by the parties (*or* settled by the Hon. Mr. Justice ———, one of the judges of the said Court) pursuant to section 75 of the Supreme Court Act and the rules of the Supreme Court of Canada, in an appeal to the said Supreme Court of Canada, in a certain case pending in the said (*name of court*) between A.B., plaintiff (appellant) and C.D., defendant (respondent).

(*If a printed copy of the Bond given as security for costs forms part of the case, the certificate may continue as follows:*)

And I do further certify that the said A.B. has given proper security to the satisfaction of the said the Honourable Mr. Justice ———, as required by the 75th section of the Supreme Court Act, such security being a bond to the amount of $500, a printed copy of which is to be found on pages ——— of the said printed document hereto annexed.

In testimony whereof I have hereto subscribed my name and affixed the seal of the said (*name of court*) this (*date*).

(*See section 73 of the Supreme Court Act, and Rules 1, 2, 3 and 4. See also section 75 and Rule 6.*)

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874. APPOINTMENT OF AGENT.

(*Rule 16.*)

I, ———, of the City of ———, in the Province of ———, practising as an attorney and solicitor in the Superior Courts of the said Province hereby authorize ———, of the City of Ottawa, Esquire, to render his name as my agent, in the agents' book of the Supreme Court of Canada, and to act as such agent in all appeals to that Court in which I may be concerned as attorney or solicitor, (*or, if the authority is to be limited,* in the following appeal, viz., ———), (*date*).

875. ORDER MADE IN CHAMBERS.

IN THE SUPREME COURT OF CANADA.

——— day the ——— day of ———, 19—.

The Honourable Mr. Justice (*or* The Registrar) in Chambers.

Between A.B., (Plaintiff), Appellant,

and

C.D., (Defendant), Respondent.

Upon hearing ———, and upon reading the affidavit of ——— filed the ——— day of ———, 19—, (and ———).

1. It is ordered (*here insert the order made*), and that the costs of this application, which are hereby fixed at the sum of ——— be paid by the said ——— to the said ———.

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876. NOTICE OF HEARING APPEAL.

IN THE SUPREME COURT OF CANADA.

J.A., appellant, v. A.B., respondent.

Take notice that this appeal will be heard at the next session of the Court, to be held at the City of Ottawa on ——— the ——— day of ———, 19—.

To ———, appellant's solicitor *or* attorney, *or* appellant in person.

Dated this ——— day of ———, 19—.

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877. JUDGMENT ALLOWING APPEAL.

IN THE SUPREME COURT OF CANADA.

——— day the ——— day of ———, A.D. 19—.

Present: The Honourable ———, Chief Justice.
" " Mr. Justice ———.
" " Mr. Justice ———.
" " Mr. Justice ———.
" " Mr. Justice ———.
" " Mr. Justice ———.

(*If any judge has been absent when judgment was rendered add*: The Honourable Mr. Justice ——— being absent, his judgment was announced by The Honourable The Chief Justice, *or* Mr. Justice ———, pursuant to the statute in that behalf).

Between A.B., (Plaintiff), Appellant,

and

C.D., (Defendant), Respondent.

The appeal of the above named appellant from the judgment of the court of King's Bench for the Province of Quebec (appeal side) (*or* of the Court of Appeal for Ontario *or as the case may be*), pronounced in the above cause on the ——— day of ———

in the year of our Lord ———, reversing the judgment of the Superior Court for the Province of Quebec sitting in and for the District of ———, (*or* of the High Court of Justice for Ontario, *or as the case may be*), rendered in the said cause on the ——— day of ——— in the year of our Lord ———, having come on to be heard before this Court on the ——— day of ——— in the year of our Lord ———, in the presence of counsel as well for the appellant as the respondent, whereupon and upon hearing what was alleged by counsel aforesaid, this Court was pleased to direct that the said appeal should stand over for judgment, and the same coming on this day for judgment, this court did order and adjudge that the said appeal should be and the same was allowed, that the said judgment of the Court of King's Bench for the Province of Quebec (appeal side) (*or* of the said Court of Appeal for Ontario, *or as the case may be*) should be and the same was reversed and set aside, and that the said judgment of the Superior Court for the Province of Quebec sitting in and for the District of ——— (*or* of the High Court of Justice for Ontario, *or as the case may be*) should be and the same was restored.

And this Court did further order and adjudge that the said respondent should and do pay to the said appellant the costs incurred by the said appellant as well in the said Court of King's Bench for the Province of Quebec (appeal side) (*or* in the said Court of Appeal for Ontario, *or as the case may be*) as in this Court.

Note.—If a judge has died while the case stands en delibere add the words "Constituted as above with the addition of the Honourable Mr. Justice ———, since deceased.

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878. JUDGMENT DISMISSING APPEAL.

(*Formal parts as in preceding down to* "did order and adjudge.")

That the said judgment of the Court of King's Bench for the Province of Quebec (appeal side), (*or*, of the Court of Appeal for Ontario, *or as the case may be*) should be and the same was affirmed, and that the said appeal should be and the same was dismissed with costs to be paid by the said appellant to the said respondent.

VI. APPEALS TO THE PRIVY COUNCIL.

(*Rule 831.*)

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879. BOND ON APPEAL TO THE PRIVY COUNCIL.

(*Rule 831.*)

Know all men by these presents, that we (*naming all the obligors, with their places of residence and additions*), are jointly

and severally held and firmly bound unto (*naming the obligees, with their places of residence and additions*), in the penal sum of two thousand dollars, for which payment, well and truly to be made, we bind ourselves, and each of us binds himself, our, and each of our heirs, executors and administrators, respectively, firmly by these presents.

Dated this ——— day of ——— in the year of our Lord, 19—.

Whereas (*the appellant*) alleges, that in the giving of judgment in a certain action in His Majesty's Court of Appeal for Ontario, between (*the respondent*) and (*the appellant*), manifest error hath intervened, wherefore (*the appellant*) desires to appeal from the said judgment to His Majesty, in His Majesty's Privy Council:

Now the condition of this obligation is such, that if (*the appellant*) do and shall effectually prosecute such appeal, and pay such costs and damages as shall be awarded, in case the judgment aforesaid to be appealed from shall be affirmed, or in part affirmed, then this obligation shall be void, otherwise shall remain in full force.

(*Where it is also desired to give security to stay execution additional clauses should be added similar to those in Bond on appeal to Court of Appeal.*)

Note.—Affidavits of execution and of justification must be annexed to and filed with the bond.

PART II.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

INJUNCTIONS.

880. NOTICE OF MOTION FOR INJUNCTION.—GENERAL.

On behalf of the plaintiff, that the defendant A.B., his (*or* the defendants A.B., C.D., &c., their, and each of their) attorneys and agents (*or* officers, contractors, servants, workmen and agents *or as may be*), may be restrained by the order and injunction of this Honourable Court from (*state what*) until the trial of this action (*or as may be*) or until further order.

881. AGAINST DISTRAINING.

From taking any further proceedings by distress or otherwise to recover the rents and profits of the hereditaments and premises in the writ of summons mentioned; and from putting in force and execution the distress levied by the defendant upon the goods and chattels of W.P. in the plaintiff's writ of summons mentioned until, &c.

882. RESTRAINING PARTNER.

From possessing himself of, getting in or receiving, and from disposing of, charging or incumbering any part of the moneys, credits, property, assets, estate or effects of or belonging to the partnership business in the writ of summons mentioned; and from incurring any debts or debt in respect of the said business, and from carrying on, or in any manner interfering in or intermeddling with the said business, or any of the moneys, property, assets or affairs thereof, without the consent of the plaintiff until, &c.

883. TO RESTRAIN FELLING OF TIMBER.

From felling any timber or other trees standing or growing in the meadow or in the hedge in the writ of summons mentioned;

and from cutting the said hedge or the underwood thereof; and from committing any other waste, or otherwise interfering with the said meadow, trees or hedge until, &c.

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884. TO RESTRAIN INFRINGEMENT OF TRADE MARK.

From affixing, or causing to be affixed, to any casks of wine shipped to their, or any of their order, or used by them or any of them, the brand or mark of a crown and the word "Seixo," or any other combination of marks or words so contrived as, by colourable imitation or otherwise, to represent the marks or brands used by the plaintiff; and from employing or permitting to be employed any marks or brands or words or other designation in respect of wines offered for sale by the defendants or any of them, which shall be so contrived as to represent or to induce a belief that such wines are Crown Seixo or the produce of the quinta do Seixo in the writ of summons mentioned; and also from describing or offering for sale the wines simply as Seixo wine; or otherwise using the word "Seixo" in respect of such wine without clearly distinguishing the same from wine produced on the plaintiff's said quinta do Seixo until, &c.

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885. TO RESTRAIN ERECTION OF WALL.

From continuing to erect or raise the walls or building now in course of erection by the defendants to the north of the plaintiff's premises in the writ of summons mentioned to a height greater than the present height of the said wall or building until, &c.

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886. TO RESTRAIN POLLUTION OF WATER.

From causing or permitting any sewage, or water polluted with sewage, to pass through the drains or channels under their control into the river C. in such manner as to render the water of the said river at or near the plaintiff's mill unfit for use by the plaintiff or otherwise injurious to the health of the persons resident at the said mill until, &c.

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887. NOTICE OF MOTION TO DISSOLVE INJUNCTION.

On behalf of the defendant A.B., that the injunction awarded by the order made herein dated the ——— day of ———, 19—, may be dissolved.

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888. AGAINST INFRINGEMENT OF COPYRIGHT

In Design.

That the defendant, his servants, and agents, may be restrained until the trial of this action, or until further order during the

continuance of the plaintiff's copyright in the design registered the ——— day of ———, 19—, and numbered ———, from applying the said design to any article, and from making or selling any article to which the design has been applied, and in particular (———) and that such further order may be made as to this Honourable Court shall seem meet.

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889. INTERIM INJUNCTION

Against Removing Buildings.

Upon motion this day made unto this Court by Mr. ——— of counsel for the plaintiff, upon hearing read the writ of summons herein, the affidavits of the plaintiff and ———, and upon hearing what was alleged by counsel aforesaid, and the plaintiff by his counsel undertaking to abide by any order as to damages which this Court may make in case it should hereafter be of opinion that the defendant shall have sustained any by reason of this order and injunction which the plaintiff ought to pay:

1. This Court doth order that the defendant, his servants, workmen and agents, be and they are hereby restrained from removing or destroying the buildings erected on the lands in question herein and described in the writ of summons until ——— day the ——— day of ——— next, or until the motion then to be made to continue this injunction shall have been heard and determined.

2. And this Court doth further order that the said plaintiff be at liberty to file and read a further affidavit upon the return of the said motion to continue this injunction, serving a copy thereof with the said notice of motion to continue the injunction.

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890. ORDER CONTINUING INJUNCTION

Against Transferring a Promissory Note.

Upon motion this day made unto this Court by Mr. ——— of counsel for the plaintiff, for an order continuing until the trial of this action the injunction granted herein on the ——— day of ———, 19—, in presence of counsel for the defendants (*or* no one appearing for the defendants although duly notified, as by the affidavits of ——— and ——— appears), upon hearing read the writ of summons and statement of claim herein, the order dated the ——— day of ———, 19—, and the affidavit of ——— filed, and upon hearing what was alleged by counsel aforesaid, and the plaintiff by his counsel undertaking to abide by any order which this Court may make as to damages in case it may hereafter appear that the defendants shall have sustained any by reason of the said order or of this order which the plaintiff ought to pay:

1. This Court doth order that the defendant C.D., his officers, servants and agents, be and the same are hereby restrained from parting with, delivering over or transferring to the defendant E.F., or to anyone whomsoever, a certain promissory note dated the ——— day of ———, 19—, for $——— made by the plaintiff, and the bonds in the statement of claim in this action mentioned, or from paying such dividends as may in the meantime be payable on such bonds, until the trial or other final disposition of this action.

2. And this Court doth further order that the costs of and incidental to the motion for an interim injunction and of this motion be reserved to be disposed of by the Judge presiding at the trial of this action; or, if the said action shall not be tried, then upon application to the said Mr. Justice ———.

891. ORDER CONTINUING INJUNCTION UNTIL TRIAL

Against Felling Timber.

Upon motion of Mr. ——— of counsel for the plaintiff, for an order continuing the order and injunction granted by the Local Judge at ——— (*or as the case may be*) on the ——— day of ———, 19—, no one appearing for the defendants though duly served with notice of this motion as appears by affidavit of service filed, upon hearing read the writ of summons herein and the affidavit of service thereof upon the defendants, and the affidavits of ——— and ——— filed and the exhibits therein referred to, and the said order and injunction, and upon hearing what was alleged by counsel aforesaid, and the plaintiff by his said counsel undertaking to abide by any order this Court may make as to damages in case it should hereafter be of the opinion that the defendants have sustained any by reason of this order which the plaintiff ought to pay:

1. This Court doth order that the said order and injunction restraining the defendants and each of them, their and each of their servants, agents and workmen, from cutting any wood or other timber on the lands and premises described as ———, and also from selling or otherwise disposing of any timber, &c. (*as in the order*), be and the same is hereby continued until the trial or other final disposition of this action or until further order.

2. And this Court doth further order that the costs of and incidental to the motion to the said Local Judge and this motion be reserved to be disposed of by the Judge presiding at the trial of this action; or, if the said action shall not be tried, then upon application to the said Mr. Justice ———.

892. RESTRAINING SALE OF DESIGN, &c.

This Court doth order that the defendant, his servants, &c., be restrained until after the, &c., from selling the design in the writ of summons mentioned, and from applying the same, or any colourable imitation thereof, to any substance or article of manufacture and in particular from manufacturing ornamental sweetmeats made so as to resemble those of the plaintiff; and from selling or offering or exposing for sale any substance or article of manufacture to which the said design has been applied; and in particular the ornamental sweetmeats manufactured by the defendant, &c., as in the ——— mentioned, or any ornamental sweetmeats made so as to resemble those of the plaintiff.

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893. RESTRAINING INFRINGEMENT OF COPYRIGHT.

This Court doth order that the defendants, their workmen, &c., be restrained from publishing, selling, or advertising for sale the work called, &c., in the ——— mentioned, or any words containing the extracts in the ——— paragraph of the ——— mentioned, or any of them, and from parting with the possession of any copies of the said work now in their possession or under their control; until, &c.

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894. INJUNCTION PERPETUAL AS TO COPYRIGHT.

This Court doth order that the injunction against the defendants, their servants, agents or workmen, printing, publishing, or vending a book, comedy or farce, called, &c., or any part thereof, be made perpetual; and the plaintiff (by his counsel) waiving the account prayed by the statement of claim, this Court doth not think fit to direct any account.

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895. JUDGMENT FOR PERPETUAL INJUNCTION

Against Infringement of Copyright.

This Court doth order and adjudge that the defendant M., his workmen, &c., be perpetually restrained from publishing, printing, selling, delivering or otherwise disposing of, or causing or (knowingly) permitting to be published, printed, sold, delivered or otherwise disposed of, any copies or copy of his book in the plaintiff's ——— mentioned, called "———," or any part thereof.

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896. ORDER RESTRAINING USE OF TRADE MARK.

This Court doth order that the defendant E. be restrained until the ——— day of ——— or until further order from infringing the plaintiff's trade marks registered in pursuance of the ———

or either of them and from selling or offering for sale any tea in, or from otherwise using, wrappers, having imprinted thereon any imitation, or colourable imitation of the plaintiff's trade marks, or either of them.

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897. ORDER AGAINST USE OF TRADE MARK.

Account of Profits.

This Court doth order and adjudge that the defendants, their agents, &c., be perpetually restrained from applying the mark or title "Eureka" to any shirts manufactured by the defendants, or to any shirts sold by them, unless such shirts be manufactured by the plaintiff, and from selling or disposing of any shirts already marked with the mark or title "Eureka" until such mark shall have been applied by the plaintiff and with his sanction, and from issuing any boxes, or packages containing shirts upon or in which the mark or title "Eureka" shall be applied to labels, card or other mark containing the word "Eureka" to or with any shirts not of the plaintiff's manufacture.

This Court doth further order and adjudge that an account be taken of the profits made by the defendants in manufacturing and selling, and in selling shirts under the mark or title of "Eureka" since the day of ———; and that the defendant F., &c., within (fourteen) days from the date of the Master's certificate, to be made pursuant to this order, pay to the plaintiff the amount which, upon taking such account, shall be certified to be payable by the defendants to the plaintiff.

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898. ORDER CONTINUING INJUNCTION

And For Delivery Up.

This Court doth order that the injunction awarded on the ——— day of ———, 19—, against the defendants, restraining them and each of them, their workmen, servants and agents, from selling or disposing of any of the articles of manufacture to which the plaintiff's design in the statement of claim mentioned, or a fraudulent imitation thereof, had been applied, and from applying the plaintiff's said design, or any fraudulent imitation thereof, to any woven fabrics or articles of manufacture, be continued until after the ——— day of ———, 19—, then next.

And this Court doth further order, that the defendants shall forthwith deliver up to the plaintiffs, for the purpose of being destroyed, the drawing, point paper, and the several cards used in applying the said design; and also the articles manufactured by the defendants to which the said plaintiff's design has been applied; the same to be verified by affidavit.

899. ORDER TO RESTRAIN INFRINGEMENT OF PATENT.

This Court doth order that the defendant T. be restrained until further order from manufacturing any tube expanders similar to the tube expander which has been purchased by the defendant B. as in the plaintiff's statement of claim mentioned or otherwise constructed so as to imitate or resemble the roller expanding tool, described in the specification in the plaintiff's letters patent in the statement of claim mentioned and to restrain the defendants T. and B., their agents, &c., from selling or offering for sale, or otherwise parting with the custody of, any tube expanders or parts of any tube expanders, which have been so manufactured by the said defendant T.

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900. RESTRAINING SALE OF PHOTOGRAPHS.

This Court doth order that the defendant, his agents and servants and every of them be perpetually restrained from selling or offering for sale or exposing by way of advertisement or otherwise a certain photograph of the plaintiff got up as a Christmas card, and from selling or exposing for sale or otherwise dealing with such photograph.

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901. INJUNCTION ON DISSOLUTION OF PARTNERSHIP.

This Court doth order that the defendant and his (servants and) agents be restrained from intermeddling with the partnership assets and from signing or using the name or style of firm of H. and D. or from trading or dealing in or under that name or style; until, &c.

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902. INJUNCTION ON DISSOLUTION.

Restraining Carrying on Business or Soliciting custom in the Name of the Old Firm.

This Court doth order that the defendant A.B., his partners, servants, workmen and agents be restrained until judgment in this action from applying to any person who was a customer of the defendant prior to, &c., privately or by letter, personally or by a traveller asking such customer to deal with the defendant, or not to deal with the plaintiff in varnish or polish, of any description and from serving varnish or polish of any description to or otherwise dealing in the same with any such customer.

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903. ORDER RESTRAINING ISSUE OF SHARES

In Payment of Dividends.

This Court doth order that the defendants the ——— Co., their directors and servants be restrained until, &c., from issuing any

preference or other shares or stocks, or any debenture stocks for the purpose of paying, by means of such preference or other shares or stocks, any dividends or interest to the shareholders of the Co. in respect of their shares or stock in the Co. and in particular the dividends announced in the months of ———.

904. ORDER RESTRAINING TRANSFER OF STOCK.

This Court doth order that the defendant A. be restrained from transferring any stock of the ——— Company standing in the name of B. the testator, &c., or in the name of the said A. as the executor of the said B. or any part thereof, and from receiving the dividends and interest due to accrue due thereon; and also that the said company, its officers and servants be restrained from permitting the said defendant A. to transfer such stock or receive such dividends and interest, until, &c.

905. ORDER RESTRAINING FORFEITURE OF SHARES

For Non-payment.

This Court doth order that the defendants, ——— Company, Limited, and their agents be restrained until the trial of this action from taking proceedings as against the plaintiff under the notice of the ——— day of ———, 19—, to enforce the call of $——— per share of which the defendants required payment on the ——— day of ——— and from forfeiting the plaintiffs' ——— shares for non-payment of such call and until due notice has been given of such call, and until such notices shall have expired, and from acting as against the plaintiffs in any way upon the notices bearing date the ——— day of ———, 19—.

906. ORDER RESTRAINING COLLECTION OF ASSETS.

This Court doth order that the defendant C. be restrained from receiving or collecting any part of the outstanding personal estate and effects of the testator B. and from receiving or collecting any part of the debts due and owing in respect of the business or concern of, &c., carried on by the testator up to the time of his death, and afterwards by the said defendant; and also from receiving or collecting any part of the rents of the freehold estate of the testator, and from letting or managing the said estates or interfering therewith, or with any other part of the testator's estate or effects, until, &c.

907. ORDER RESTRAINING LIBEL ON TRADE

By Circular Containing Erroneous Quotation From a Judgment.

This Court doth order that the defendants A. B. and C. be perpetually restrained from issuing or distributing or permitting

to be issued or distributed, the circular which at the date of the issue of the writ in this action was being distributed by them at ———, purporting to contain a quotation from the judgment of Mr. Justice ——— or any other circular or advertisement containing an unfair report of the said judgment to the prejudice of the plaintiff.

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908. ORDER AGAINST OPENING LETTERS

Of Another Firm, or Supplying the Orders Therein Contained.

This Court doth order that the defendants B., &c., their agents, &c., be restrained from receiving, retaining or opening any letters or letter addressed, &c., or otherwise addressed to the plaintiff C.S. or to the plaintiff's said firm of C.S. and Co. as in the writ of summons mentioned, and from taking advantage or making use of the communications or information, and from supplying the orders or any of them contained in any such letters and from in any manner availing themselves of or using the contents of any such letters until, &c.

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909. ORDER AGAINST PRACTISING A PROFESSION

Within Specified Limits.

This Court doth order that the defendant W. be restrained from carrying on, either alone or in co-partnership with any other person or persons whomsoever, the practice and profession of a ——— in W. or M. in the County of D. or at any place within fifty miles thereof respectively; and from continuing to describe himself by any public inscription on his premises at W. aforesaid as a ———.

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910. ORDER AGAINST REPRESENTATION

That Defendants are Plaintiff's Successors.

This Court doth order and adjudge that the defendants, the X. Co., Ltd., their servants, workmen, agents, travellers and representatives respectively, be perpetually restrained from selling, exporting, or shipping, or causing or procuring, or allowing to be sold, shipped, or exported, and from in any manner representing, or causing or procuring to be represented any goods manufactured or sold by the defendant Co. as the manufacture of goods of the late A.B. or of the plaintiffs, his trustees and successors in business, and also from in any manner representing or causing or procuring to be represented or doing anything which shall lead to the belief that the defendant Co. have been or are carrying on the business of the late A.B. or are the successors in business of the late A.B. and also from affixing or permitting or causing to be affixed to any goods or articles manufactured or bought or procured

or sold, or shipped or exported by the defendant Co. or otherwise using or employing or permitting to be used or employed any labels, wrappers or marks similar to or only colourably differing from the labels, wrappers or marks used by the late A.B. and the plaintiffs his trustees, and successors in business or so contrived and prepared as to represent or lead to the belief that the goods or articles manufactured or sold, or shipped or exported by the defendant Co. are the goods or manufacture of the late A.B. or of the plaintiffs, his trustees and successors in business, and also from employing, using or circulating or causing to be employed, used or circulated any business pamphlets, notices or advertisements similar or only colourably differing from the business pamphlets, notices or advertisements of the late A.B. or of the plaintiffs as his trustees and successors in business or which shall in any manner represent or lead to the belief that the defendant Co. have been carrying on the business of the late A.B. or that they are his successors in business.

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911. ORDER AGAINST CARRYING ON BUSINESS

Without Distinguishing it from Business of Plaintiff Having Same Surname.

This Court doth order and adjudge that the defendants G.S.W. & Co., Limited, their servants and agents, be perpetually restrained from carrying on their business of G.S.W. & Co., Limited, without clearly distinguishing such business from the business of the plaintiff and from publishing advertisements or issuing circulars in the name of G.S.W. & Co., Limited, without clearly distinguishing therein, their business from the business of the plaintiff and from otherwise representing in any way that their business is the business or a branch of the business of the plaintiff.

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912. ORDER AGAINST USE OF PREMISES

For Trade or Business Purposes.

This Court doth order that the defendants, the L. Co., Ltd., their servants and agents, be perpetually restrained from using the plot of land and house, and premises thereon, called ——— situate in L., in the County of W., in the writ mentioned or any part thereof as a sanatorium, and from carrying on any trade or business on the said property or any part thereof, and from doing on the said property or any part thereof anything which shall be a nuisance or annoyance to the neighborhood.

913. ORDER AGAINST TRESPASSING ON LAND.

This Court doth order that the defendant, his agents, &c., be restrained until judgment in this action, or until further order, from committing any trespass upon the plaintiff's land at, &c., being, &c., or any part thereof.

914. ORDER RESTRAINING USE OF PRIVATE ROAD.

This Court doth order that the defendants, their agents, &c., be restrained until after the ——— day of ——— or until further order, from using or permitting to be used any part of the lane at, &c., the soil of which, it is alleged belongs to the plaintiffs as a carriage way for the passage of carts, carriages or other vehicles, either going to or from the land being, &c., or for any purpose whatsoever.

915. AGAINST DIVERTING OR DIMINISHING FLOW OF WATER.

This Court doth order that the defendant, &c., be restrained from diverting the water in the ponds or springs situated, &c., as to prevent the same from flowing into the river P. and from employing any steam engines, pumps, or any other means of using the water in the said ponds or springs so as to diminish the quantity of the said water which flows into the said river; and also from diverting the course of the water which flows from surface springs on the south side, &c., so as to prevent the same from flowing in its natural course towards and into the said river.

916. ORDER RESTRAINING NUISANCE FROM STEAM HAMMER.

Noise and Vibration Restrained.

This Court doth order that the defendant, &c., be restrained from working the steam hammer in the pleadings mentioned in such a way as to cause a nuisance or injury to the plaintiff and his premises in the pleadings mentioned; and that an inquiry be made what damage has been occasioned to the plaintiff and his said premises by the working of the said steam hammer.

917. ORDER AGAINST NOISY ENTERTAINMENT.

This Court doth order that the defendant be restrained from using or permitting to be used the premises called, &c., or any part thereof, for the purpose of balloon ascents, fireworks, dancing, music, or other sports or entertainments whereby a nuisance may be occasioned to the annoyance and injury of any of the inmates of the asylum in the pleadings mentioned.

918. ORDER AGAINST POLLUTION OF STREAM

By Manufacturing Works.

This Court doth order and adjudge the defendants, The S. Papermaking Co. (Ltd.), their servants, &c., be perpetually restrained from discharging from their works in the pleadings mentioned into the river or stream in the said pleadings also mentioned (so as to cause it to flow to the plaintiff's lands, messuages and mills therein also mentioned in a state less pure than that in which it flowed there previously to the establishment of the said works, to the injury of the plaintiff.)

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919. ORDER AGAINST WATCHING OR BESETTING PREMISES.

This Court doth order and adjudge that the defendants be perpetually restrained from watching or besetting the plaintiff's works or place of business, and the approaches thereto, for the purpose of persuading or otherwise preventing persons from working for the plaintiffs or for any other purpose except merely to obtain or communicate information and from watching or besetting the premises of A.S. for the purpose of persuading or otherwise preventing him from working for the plaintiffs or for any purpose except merely to obtain or communicate information.

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920. EX PARTE ORDER RESTRAINING PUBLICATION

Of Matter Tending to Prejudice Trial of Action.

This Court doth order that A.B. the printer and publisher of the C.D. newspaper, his servants, and agents be restrained until, &c., from printing or publishing or reprinting or republishing or causing or permitting to be written, printed or published or rewritten or reprinted or republished an article or paragraph entitled "———" or any copy of or extract from such paragraph or article or any statement therein or to the like effect; and from writing or printing or publishing with or without comment, any pleading or evidence in this action, or any defamatory statement tending to prejudice the minds of the public or to prevent a fair trial of this action.

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921. ORDER REFUSING INJUNCTION.

Inquiry as to Damages.

This Court doth not think fit to grant any injunction in this action; this Court doth order that an inquiry be made what, if any, sum of money is proper to be awarded to be paid by the defendant to the plaintiff by way of compensation for any injury that has

been sustained by the plaintiff by the erection of that part of the party wall in the statement of claim mentioned adjoining that part of the shop belonging to the plaintiff's premises which is lighted by means of the dome or skylight in the statement of claim mentioned.

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922. INJUNCTION DISCHARGED OR CONTINUED.

This Court doth order that so much of the said order dated, &c., as restrains, &c., be discharged (*or* be continued until judgment in this action, or until further order).

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923. MANDATORY INJUNCTION.

This Court doth order that the defendants, The N.B. Co., Ltd., forthwith pull down and remove the kilns, chimneys and holdings which have been erected by them since the commencement of this action on the land coloured violet on the plan endorsed on the indenture of lease dated, &c.

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924. MANDATORY INJUNCTION TO REMOVE HOARDING.

This Court doth order and adjudge that the defendant forthwith pull down and remove all walls, buildings, hoardings and woodwork erected in or upon the, &c., and that the defendant, his agents, servants and workmen, be perpetually restrained from doing or permitting, or suffering to be done, any act or thing so as to obstruct the access of light to the sitting room and kitchen windows of the plaintiff's messuage in the pleadings mentioned, as the same was enjoyed before the erection of the hoarding.

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925. AFFIDAVIT FOR ORDER TO COMMIT

For Breach of Injunction.

1. By the judgment (*or* order) herein dated the ——— day of ———, 19—, it was ordered that the above named defendant C.D. should (*here set forth the mandatory part of the Judgment or order directing the doing or abstaining from the acts in question*).

2. I did, on the ——— day of ———, 19—, serve the above named defendant C.D. with the said judgment (*or* order) issued out of this Honourable Court, now produced and shown to me, and marked "A," by delivering a true copy of the said judgment (*or* order) to and leaving the same with the said defendant C.D. personally, at ———, and at the same time I produced and showed to the said defendant C.D. the said original judgment (*or* order).

3. (*Prove that defendant has committed a breach.*)

4. (*Prove service of notice of motion to commit for the breach.*)

CHAPTER XXXIV.

INTERPLEADER.

926. NOTICE BY SHERIFF OF CLAIM

To Goods Taken in Execution. (*Rule 1115.*)

(*Short Style of Cause.*)

Take notice that A.B. has claimed the goods (*or* certain goods *where only certain goods are claimed, here enumerate them*) taken in execution by the Sheriff of ——— under the writ of ——— issued in this action. You are hereby required to admit or dispute the title of the said A.B. to the said goods, and give notice thereof in writing to the said Sheriff within seven days from the receipt of this notice, failing which the said Sheriff may apply for an interpleader order. If you admit the title of the said A.B. to the said goods and give notice thereof in manner aforesaid to the said Sheriff, you will only be liable for any fees and expenses incurred prior to the receipt of the notice admitting the claim.

Dated, &c.

To the plaintiff E.F.

Sheriff of ———.

927. NOTICE OF ADMISSION OR DISPUTE OF TITLE

Of Claimant to Goods Taken in Execution. (*Rule 1115.*)

Take notice that I admit (*or* dispute) the title of A.B. to the goods (*or* to certain of the goods, namely, *set them out*) seized by you under the execution issued on the judgment in this action.

Dated at ——— the ——— day of ———, 19—.

To the Sheriff of ———.

Plaintiff's solicitor.

928. NOTICE OF MOTION

For Interpleader Order.

For an interpleader order and you the said ——— and ——— are hereby notified to appear at the said time and place and state the nature of your respective claims to (*stating the debt, money, goods, &c., e.g.*, the insurance moneys payable under Policy No. ——— in the (defendant's) Company, now in the hands of the (defendants), *or* a car of lumber now in the possession of the above-named Railway Company, consigned to A.B. *or* the goods and chattels seized in this action) and maintain or relinquish the same and abide by such order as may be made herein.

929. AFFIDAVIT ON INTERPLEADER

By a Defendant. (*Rule 1104.*)

1. The writ of summons herein was issued on the ——— day of ———, 19—, and was served on me on the ——— day of ———, 19—. (*Set forth further steps taken in action.*)

2. The action is brought to recover ———. The said ——— (is *or* are) in my possession, but I claim no interest therein.

3. The right to the said subject-matter of this action has been and is claimed (*if claim in writing make the writing an exhibit*) by one (*state expectation of suit or that he has already sued*).

4. I do not in any manner collude with the said ——— or with the above-named plaintiff, but I am ready to bring into Court or to pay or dispose of the said ——— in such manner as the Court may order or direct.

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930. AFFIDAVIT ON INTERPLEADER

On a Sheriff's Behalf.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
E.F., Defendant,
and
Between G.H., Plaintiff,
and
E.F., Defendant,
and
In the County Court of the County of ———,
Between L.M., Plaintiff,
and
E.F., Defendant,
And Between P.Q. and R.F., Claimants,
and
A.B., G.H. and L.M., and the Sheriff of the County of ———, Respondents.

I, X.Y., of the ——— in the County of ———, Sheriff of the said County, make oath and say, as follows:

1. Under and by virtue of a writ of *fieri facias*, &c.

2. On or about the ——— day of ———, 19—, I was served with a written notice of claim of which the following is a true copy: (*copy notice*).

3. On the ——— day of ——— I caused to be delivered to the solicitors for each of the plaintiffs A.B., G.H., and L.M., a true copy of the notice now shewn to me and marked Exhibit A., to

this affidavit, and in response thereto I have received from ——— the notice now shewn to me and marked Exhibit ——— hereto (*as may be the case*).

4. This application for an interpleader order is made to this Honourable Court on my behalf, as such Sheriff, at my own expense, and for my indemnity only, and I do not in any manner collude with the said claimants or any of them.

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931. INTERPLEADER ORDER

Directing Sale and Application of Proceeds Thereof.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as the case may be.*) } ——— day the ——— day of ———, 19—.

Between A.B., Plaintiff,
and
C.D., Defendant,
And Between E.F., Claimant,
and
The said A.B., Execution Creditor, and the Sheriff of ———, Respondents.

Upon the application of the Sheriff of ——— for an interpleader order, and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the above named Sheriff proceed to sell enough of the goods seized under the writ of *fieri facias* issued in this action to satisfy the expenses of the said sale, the rent (if any) due, the claim of the claimant and this execution.

2. And it is further ordered that out of the proceeds of the said sale, (after deducting the expenses thereof and rent, if any,) the said Sheriff pay to the claimant the amount of his said claim, and to the execution creditor the amount of his execution, and the residue, if any, to the defendant.

3. And it is further ordered that no action be brought against the said Sheriff, and that the costs of this application be ———.

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932. INTERPLEADER ORDER

Directing Summary Trial.

Upon the application of the Sheriff of ——— for an interpleader order, and upon hearing read the affidavits of ———, and upon hearing the solicitor (*or* counsel) for ———, and the claimant and the execution creditor having requested and consented that the merits of the claim made by the claimant be disposed of and determined in a summary manner:

1. It is ordered that, &c.

2. And it is further ordered that the costs of this application be ———.

933. INTERPLEADER ORDER

Directing Sale of Goods or Taking of Security therefor; and Directing Trial of Issue.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as may be.*) } ——— day the ——— day of ———, 19—.

Between A.B., Plaintiff,
and
C.D., Defendant,
And Between, &c. (*titles of any other actions*),
And Between E.F., Claimant,
and
The said Execution Creditors A.B., &c., and the Sheriff of ———, Respondents.

Upon the application of the said Sheriff for an interpleader order, and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the said Sheriff proceed to sell the goods seized by him under the writ of *fieri facias* issued herein, and pay the net proceeds of the sale, after deducting the expenses thereof (*or as otherwise ordered,*) into Court in this cause, to abide further order herein:

Or it is ordered that upon payment into Court by the said claimant within ——— from this date of the sum of $——— (*or* of the appraised value of the goods and chattels seized by the said Sheriff herein, together with the expenses of appraisement), or upon the said claimant within the same time giving to the execution creditor security to the satisfaction of ——— for the payment of the same amount by the said claimant according to the directions of any order to be made herein, and upon payment by the said claimant to the above named Sheriff of the possession money from (*the date of the notice of motion or of the order or such date as may be proper*), and upon production to the said Sheriff of the Accountant's certificate that the money has been paid into Court, or the certificate of the said ——— that security has been given as aforesaid, the said Sheriff do withdraw from the possession of the goods and chattels seized by him under the writ of *fieri facias* herein.

2. And it is further ordered that unless such payment be made (including the Sheriff's possession money) or such security be given within the time aforesaid, or in case before the expiration of the time aforesaid the claimant desires the said goods and chattels to be sold by the said Sheriff, the said Sheriff do proceed to sell the said goods and chattels, and pay the proceeds of the sale, after

deducting the expenses thereof (*or as otherwise ordered*) and the possession money as aforesaid, into Court to the credit of this matter, to abide further order herein.

3. And it is further ordered that the parties proceed to the trial of an issue in the High Court of Justice (*or* in the County Court of the County of ———,) in which the claimant (*or* execution creditor) shall be plaintiff and the execution creditor (*or* claimant) shall be defendant, and that the question to be tried shall be whether at the time of (*insert here* the delivery of the said writ to the Sheriff *or* the seizure by the Sheriff *or* the sale by the Sheriff *as the case may require*) the goods and chattels seized (*in case the claimant is plaintiff* were the property of the claimant as against the execution creditor) (*or in case the execution creditor is plaintiff* were exigible under the execution of the execution creditor as against the claimant).

4. And it is further ordered that such issue be prepared and delivered by the plaintiff therein within ——— from this date and be returned by the defendant therein within ——— days thereafter, and be tried at ———.

5. And it is further ordered that the question of costs and all further questions be reserved to be disposed of by the Judge at the trial of the said issue, or if not so disposed of, then to be disposed of in Chambers.

6. And it is further ordered that any other execution creditors desiring to take part in the contest of the said issue shall be at liberty to do so upon placing their executions against the goods of the defendant in the hands of the said Sheriff within ——— days from this date, and upon notifying within the same time the solicitors for ——— (*an execution creditor,*) (who shall have the conduct of the said issue for all execution creditors taking part in it,) of their desire to come in and of their agreement to contribute *pro rata* to the expense of the said contest according to the statute in that behalf.

7. And it is further ordered that no action be brought against the said Sheriff for or in respect to the seizure of the said goods and chattels or for anything done under this order.

934. INTERPLEADER ORDER

Substituting New Claimant to Goods Seized.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as may be.*) } ——— day the ——— day of ———, 19—.

Between ———, Plaintiff,
and
——— Defendant.
And Between ——— Claimant,
and
——— Respondent.

Upon the application of ———, upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the above named claimant be substituted as defendant in this action in lieu of the present defendant.

2. And it is further ordered that the costs of this application be ———.

---

935. INTERPLEADER ORDER

On Application of Sheriff, Claimant not Appearing. (Rules 1103, &c.)

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as may be.*) } ——— day the ——— day of ———, 19—.

Between A.B., Plaintiff,
and
C.D., Defendant.
And in the County Court of the County of ———.
Between E.F., Plaintiff,
and
C.D., Defendant.
And Between G.H., Claimant,
A.B. and E.F., the said Execution Creditors and the Sheriff of———, Respondents.

Upon the application of the said Sheriff for an interpleader order, upon reading the affidavit of —— filed, and upon hearing the solicitor (*or* counsel) for ———, and the said claimant not appearing though duly served with notice as by affidavit of ——— appears:

1. It is ordered that the said claimant and all persons claiming under him be and they are hereby forever barred of and from all claim to the goods and chattels seized herein by the said Sheriff as

against the said execution creditors, and that no action be brought against the above named Sheriff for or in respect to the seizure of said goods.

2. And it is further ordered that the costs of this application be ———.

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936. INTERPLEADER ISSUE

As to Ownership of Goods Seized by a Sheriff under Writ of Fi. Fa.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

A.B. affirms and C.D. denies that certain goods or chattels and effects in and about a certain house in the occupation of E.F., situate in ——— seized in execution by the Sheriff of the County of ——— under a writ of fieri facias, dated the ——— day of ———, 19—, and issued out of the High Court of Justice, directed to the said Sheriff for the having in execution of a judgment of that Court, recovered by the said C.D. in an action at his suit against the said E.F., were, at the time of the said seizure, the property of the said A.B. as against the said C.D.

And it has been ordered by the learned Master-in-Chambers, pursuant to the statutes in that behalf, that the truth of the matters aforesaid shall be tried by a jury.

Therefore let a jury come.

Delivered this ——— day of ———, 19—, pursuant to the said order dated the ——— day of ———, 19—, by G.H. of the ——— of ——— in the County of ———, solicitor for the above-named plaintiff.

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937. INTERPLEADER ISSUE

As to Ownership of Stock.

The plaintiffs affirm and the defendants deny:

1. That the plaintiffs are the holders of ——— shares of stock in the ——— Company, in respect of which ——— have paid $——— into Court.

2. That they are entitled to be registered as the holders of the said shares.

3. And that the said sum of $——— is the property of the plaintiffs as against the defendants.

And the defendants affirm and the plaintiffs deny:

1. That they (the defendants) are the holders, or one of them is the holder, of the said shares.

2. That they are entitled to be registered as the holders, or one of them is entitled to be registered as the holder, of the said shares.

3. And that the said sum of $——— is the property of the defendants, or one of them, as against the plaintiffs.

And it has been ordered by the learned Master in Chambers that the issue aforesaid shall be tried by a jury in the County Court of the County of ———.

Therefore let a jury come.

Delivered this ——— day of ———, 19—, pursuant to the said order dated the ——— day of ———, 19—, by A.B., of the City of ———, in the County of ———, solicitor for the above-named plaintiffs.

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938. ORDER OF DIVISIONAL COURT

In Interpleader Issue, Setting Aside Verdict at Trial.

Upon motion made unto this Court by Mr. ——— of counsel for the defendant, in presence of counsel for the plaintiff, to set aside the verdict entered for the plaintiff on the trial of the interpleader issue between the said parties, and to enter judgment for the defendant or for a new trial of the said issue, upon reading the notice of motion, the said issue and the notes of the charge of the learned Judge before whom the said issue was tried, and upon hearing what was alleged by counsel aforesaid, and it appearing to the Court that the verdict of the jury rendered upon the trial of the said issue was contrary to the evidence and to the Judge's charge:

1. This Court doth order that the said verdict in favor of the plaintiff be and the same is hereby set aside, and this Court finds and declares that all the stock in trade in the shop or store situate in the ——— of ——— in the County of ——— seized in execution by the Sheriff of the County of ——— under a writ of fieri facias issued out of this Court directed to the said Sheriff, for the having of execution of a judgment of this Court recovered by the said defendant in an action at his suit against (*husband of plaintiff*), were not, nor was any part thereof, at the time of the said seizure, the property of the said plaintiff as against the said defendant, and doth order and adjudge the same accordingly.

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939. ORDER FOR SHERIFF TO SELL.

Upon the application, &c., and for ——— who claimed to be entitled to the goods and chattels seized by the said sheriff under the writ of fieri facias issued in this cause and placed in his hands for an order that the said claimant and the said plaintiff should interplead.

1. It is ordered that the said Sheriff do proceed to sell the goods and chattels seized by him under the writs of fieri facias issued in this cause and now in his hands, and that no action shall be brought against the sheriff for the seizure or sale of said goods.

2. It is further ordered that the said claimant do stand barred of all his claim to said goods as against the said sheriff reserving his rights, if any, against the plaintiff.

3. It is further ordered that the claimant do pay to the plaintiff $——— and to the sheriff $——— costs of this application.

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940. INTERPLEADER ORDER

Barring Claimant.

1. It is ordered that the claimant be barred, that no action be brought against the above-named (sheriff).

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941. INTERPLEADER ORDER.

Sheriff to Withdraw.

1. It is ordered that the sheriff withdraw from possession of the goods seized by him under the writ of fieri facias herein and claimed by the claimant, that no action be brought against the above-named sheriff.

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942. BOND IN INTERPLEADER PROCEEDING

For Value of Goods Seized.

Know all men by these presents that we, E.F. of the ——— of ——— in the County of ———, (*addition or occupation*), and G.H. of the ——— of ——— in the County of ———, (*addition or occupation*), are jointly and severally held and firmly bound unto A.B. in the sum of ——— dollars, to be paid to the said A.B., his heirs, executors or administrators, for which payment well and faithfully to be made we bind ourselves and each of us binds himself, our and each of our heirs, executors and administrators, respectively, firmly, by these presents. Sealed with our seals.

Dated this ——— day of ———, 19—.

Whereas the said A.B. has lately recovered a judgment in the High Court of Justice against one C.D. for $———, and for having execution of said judgment a writ of fieri facias was issued thereon out of this Court directed to the Sheriff of the County of ———, who under the said writ seized in execution certain goods and chattels as and for the goods and chattels of the said C.D., which goods and chattels are alleged to be the property of the above-named E.F.;

And whereas by interpleader order of the Master in Chambers (*or as the case may be*), dated the ——— day of ———, 19—, upon the application of the said Sheriff, it was amongst other things ordered that upon payment of the appraised value of the said goods and chattels into Court by the said E.F. within ——— days from the date of that order, or upon his giving within the same time security to the satisfaction of the (Master in Chambers) for the payment of the same amount by him the said E.F. according to the directions of any order to be made herein, and upon payment to the above-named Sheriff of his possession money, the said Sheriff do withdraw from the possession of the said goods seized by him and claimed by the said E.F. as aforesaid; and that unless such payment should be made or such security given within the time aforesaid, the said Sheriff should proceed to sell the goods and chattels claimed by the said E.F. and pay the proceeds of such sale, after deducting the expenses and possession money from the date of the said order, into Court in the said cause to abide further order therein, and that the parties should proceed to the trial of an issue in which the said E.F. should be plaintiff and the said A.B. should be defendant, and that the question to be decided should be whether at the time of the seizure the said goods and chattels seized by the said Sheriff and claimed by the said E.F. or any of them were the property of the said E.F.;

And whereas the said E.F. instead of paying the said appraised value into Court has elected to give the security required by the said order, and the above written obligation is entered into for the purpose of such security;

Now the condition of the above written obligation is such that if upon the trial or determination of said issue so directed as aforesaid the verdict or other determination of the said issue shall be in favor of the said A.B., and the said E.F. and G.H., or one of them, their or one of their heirs, executors or administrators, shall pay or cause to be paid unto the said A.B. the sum of ——— dollars, or a less amount thereof, according to the directions of any order of the Court or a Judge to be made in the matter of the said interpleader; or if upon trial or other determination of the issue the verdict or other determination, as the case may be, shall be in favor of the said E.F.; then this obligation to be void and of none effect; otherwise to be and remain in full force and virtue.

Signed, sealed and executed.
in the presence of

E.F. [SEAL.]
G.H. [SEAL.]

943. BOND OF INDEMNITY TO SHERIFF BY PLAINTIFF.

Know all men by these presents that we, A.B., &c., and C.D., &c., are held and firmly bound to E.F., Esquire, Sheriff of the County of ———, in the sum of ——— dollars of lawful money of Canada, to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns; for which payment well and truly to be made we bind ourselves, and each of us for himself, in the whole, our and every of our heirs, executors and administrators, respectively, firmly by these presents. Sealed with our seals and dated the ——— day of ——— in the year of our Lord one thousand nine hundred and ———.

Whereas the above-named E.F., by virtue of His Majesty's writ of fieri facias to him directed, issued at the suit of A.B. out of the High Court of Justice, and returnable immediately after execution thereof, to levy on the goods and chattels of L.M. the sum of ——— dollars, hath seized and taken divers goods and chattels as the proper goods and chattels of the said L.M. in execution;

And whereas since the seizing and taking of the said goods and chattels in execution as aforesaid the said goods and chattels have been claimed by one P.R., who hath given notice to the said Sheriff not to proceed to the sale thereof;

Now the condition of the above obligation is such that if the above bounden A.B. and C.D., or one of them, their or one of their heirs, executors or administrators, do and shall from time to time and at all times hereafter well and sufficiently save harmless and keep indemnified the said Sheriff, his Deputy and officers, each and every of them, of, from and against all action and actions, losses, costs, charges, damages and expenses, and against any proceeding or proceedings at law or in equity, which are now or may hereafter be brought, commenced or prosecuted, rightfully or wrongfully, against the said Sheriff, his Deputy or officers, or any or either of them, for or on account, or by reason, or by means of seizing or selling the said goods and chattels by virtue of the said writ, or paying to the said A.B. the money arising from the sale thereof, then the above-written obligation to be void, otherwise to stand and remain in full force, virtue and effect.

Signed, sealed and delivered
in presence of

A.B. [SEAL.]
C.D. [SEAL.]

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944. BOND OF INDEMNITY TO SHERIFF BY DEFENDANT.

Know all men by these presents, that we, C.D. of the ——— of ——— in the County of ———, (*addition*), and E.F., of, &c., and G.H., of, &c., are held and firmly bound unto X.Y., Esquire,

Sheriff of the County of ———, in the penal sum of ——— dollars of lawful money of Canada, to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns, for which payment to be well and faithfully made, we bind ourselves, and each of us binds himself for the whole and every part thereof, and the heirs, executors and administrators of each and every of us, respectively, firmly by these presents. Sealed with our seals and dated this ——— day of ——— in the year of our Lord, one thousand nine hundred and ——.

Whereas the said X.Y., as such Sheriff of the said County, hath, under and by virtue of a writ of fieri facias, issued out of the High Court of Justice and to him directed, against the goods and chattels of the said C.D., defendant, at the suit of A.B., plaintiff, seized and taken in execution the goods and chattels of the said defendant enumerated in the Schedule hereunto annexed;

And whereas the said Sheriff, at the instance and request of the above bounden C.D., hath consented, upon being properly indemnified, to permit the said goods and chattels, so seized, to remain in the possession of the said defendant, for his the said defendant's benefit, until the same may be required to be sold in satisfaction of said writ. And whereas, also, the above bounden C.D., E.F. and G.H. are desirous to indemnify and hold harmless the said Sheriff, his Deputy Sheriff and officers, from all liabilities which may accrue to them or either of them under such writ;

Now the condition of the above obligation is such, that if the said C.D., E.F. and G.H., or one of them, their or one of their heirs, executors or administrators shall keep safely and produce, or cause to be produced, to the said Sheriff, or any person by him appointed, all and singular the goods and chattels in the said Schedule mentioned, when and where the said Sheriff shall demand and require the same to be produced;

And, also, if the said C.D. E.F. and G.H., or one of them, shall save and keep harmless, and fully indemnify the said Sheriff, his Deputy and officers, for any expenses which he, the said Sheriff, his Deputy and officers, may incur under or by reason of the said writ, and against all or any action or actions, or costs or damages arising from any action or actions, which may be brought for, or by reason of the said Sheriff, his Deputy or officers, entering or re-entering into or upon any land or lands, tenement or tenements, in order to obtain such goods and chattels, or for or by reason of any delay in the sale of the said goods and chattels, or any part thereof, or for or by reason of the said Sheriff being sued for a false return of or upon the said writ, or upon any other writ of fieri facias issued or to be issued against the goods and chattels of the said C.D. prior to the discharge of the first named writ; or otherwise, in respect of the said Sheriff having taken and accepted

of this obligation, instead of keeping actual possession of the said goods and chattels, and proceeding at once to a sale thereof: And, also, shall and will save and keep harmless and indemnify the said Sheriff, his Deputy and officers from and against all other loss or damage which may arise or occur for or by reason of any of the causes aforesaid, then and in such case this obligation to be void, otherwise to remain in full force, virtue and effect.

Signed, sealed and delivered
in presence of

C.D. [SEAL.]
E.F. [SEAL.]
G.H. [SEAL.]

CHAPTER XXXV.

MANDAMUS.

(*Rules 1091-1093.*)

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945. NOTICE OF MOTION FOR MANDAMUS

To Judge of Division Court. (*Rule 1091.*)

IN THE HIGH COURT OF JUSTICE.

In the Matter of a certain action pending in the ——— Division Court in the County of ——— wherein

A.B. is Plaintiff,
and
C.D. and E.F. are Defendants.

Take notice that a motion will be made on behalf of the above named plaintiff before the presiding Judge in Chambers at Osgoode Hall in the City of Toronto on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, or so soon thereafter as the motion can be heard, for an order of mandamus requiring the junior Judge of the County of ——— or such other Judge as shall preside at the next sittings of the above Division Court to try and adjudicate upon the above styled action and all the issues and matters in question therein; or for such further or other order as shall be deemed proper.

And take notice that upon and in support of such application will be read the affidavits of the plaintiff and ——— this day filed and the exhibits therein referred to.

Dated at ——— this ——— day of ———, 19—.

G. & H.,
Solicitors for plaintiff.

To the Judge of the said Court,
and to the above-named
defendants, and to X.Y.
their solicitors.

946. AFFIDAVIT FOR MANDAMUS

To a Division Court Judge.

IN THE HIGH COURT OF JUSTICE.

In the matter of a certain action pending in the ——— Division Court in the County of ———.

Between A.B., Plaintiff,
and
C.D., Defendant.

I, A.B., of the City of ———, in the County of ———, merchant, make oath and say:—

1. I am the above-named plaintiff.

2. On the ——— day of ———, 19—, I entered an action in the said Division Court against the said C.D. in respect of a claim which is set forth in the summons and particulars, a copy of which is now produced and shown to me and marked exhibit "A."

3. On or about the ——— day of ———, 19—, the defendant, the said C.D., entered a notice of dispute in the said Division Court, a copy of which is now produced and shown to me and marked exhibit "B."

4. On the ——— day of ———, 19—, the said action came up for trial at the sittings of the said Division Court at the Town of ———, in the County of ———, before ———, Esquire, Judge of the County Court of the said County of ———, and I attended at the said trial with my witnesses for the purpose of giving evidence and proving my said claim against the said C.D., and to have my said claim tried by the said judge.

5. When the said action was called for trial the defendant C.D. objected that the said Court had no jurisdiction to try said claim, and the learned judge decided that the objection was valid and that he had no jurisdiction to try the said claim and thereupon dismissed the said action and ordered me to pay the costs thereof.

6. (*If the jurisdiction of the Court does not appear upon the face of the summons and particulars, set forth any further facts concisely having regard to the nature of the claim in each particular case and showing that the Court had jurisdiction to deal with the same.*)

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947. ORDER OF MANDAMUS.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. } ——— day the ——— day of ———, 19—.

In the Matter of a certain action pending in the ——— Division Court in the County of ———

Between A.B., Plaintiff,
and
C.D., Defendant.

Upon the application of the plaintiff, upon reading the notice of motion that an order of mandamus do issue directed to His Honour the Judge of the said Division Court commanding him to try and adjudicate upon the said action, upon reading the affidavits of ——— and ———, the affidavits of ——— in answer, and the affidavit of ——— in reply, and the exhibits referred to in the said affidavits, and upon hearing what was alleged by counsel for the plaintiff and defendant:

1. It is ordered that the Judge of the ——— Division Court in the County of ——— do try the said action now pending in the said Division Court and do adjudicate upon the same.

2. And it is further ordered that the costs of and incidental to this motion be paid by the defendant to the plaintiff forthwith after taxation thereof.

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948. MANDAMUS TO A MUNICIPAL CORPORATION.

(*Order of a Divisional Court.*)

In the matter of the Board of Public School Trustees for School Section, Number ——— of the Township of ———, in the County of ———, Plaintiffs, and The Corporation of the Township of ———, Defendants.

Upon motion made unto this Court on the ——— day of ——— last on behalf of the plaintiffs by way of appeal from the order of the Honourable Mr. Justice ——— in Chambers, made on the ——— day of ———, 19—, whereby he dismissed with costs the plaintiff's application for a mandamus requiring the Reeve and Councillors and the Municipal Council of the Township of ——— to ——— pass a by-law under the provisions of (section ——— of The ——— Act, ———, chapter ———) authorizing the issue of debentures to the extent of $——— for the purpose of a school site and the erection of a school house thereon in school section No. ——— of the Township of ———, and to issue debentures which the said by-law shall authorize repayable out of the taxable property of the said school section as may be required to raise the said sum for the said purpose, upon hearing read the notice of motion and the affidavits filed on the said motion and upon hearing what was alleged by counsel for the applicants and for the defendants and the Reeve and Councillors of the said Township of ———, (*or as the case may be*) and judgment having been reserved until this day.

1. This Court doth order that the said order be and the same is hereby discharged.

2. And this Court doth further peremptorily order that the defendants, the Corporation of the Township of ———, and the Municipal Council of the same, do within ten days from the ser-

vice hereof, pass a by-law under the provisions of section ——— of the ——— Act, being chapter ——— of the ——— Act, authorizing the issuing of debentures to the extent of $——— for the purpose of purchasing a school site and the erection of a school house thereon in Section Number ——— of the Township of ———, and do upon the passing of such by-law forthwith issue debentures which the said by-law shall authorize payable out of the taxable property of such school section as may be required to raise the said sum for such purposes and hand the said debentures over to the said Trustees (*or as the case may be*).

3. And this Court doth further order that the costs of the motion before the Honourable Mr. Justice ———, and of this appeal be paid by the defendants to the plaintiffs forthwith after taxation thereof.

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949. NOTICE OF MOTION FOR MANDAMUS

To Magistrate.

IN THE HIGH COURT OF JUSTICE.

In the matter of an information (*or* complaint) laid before E.F., Esquire, a justice of the peace in and for the County of ——— by ——— A.B. against C.D. ——— for (*set out the charge*).

Take notice that a motion will be made in behalf of the above named A.B. before the presiding judge in Chambers at Osgoode Hall, in the City of Toronto, on ——— day the ——— day of ———, A.D. 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the motion can be made for a mandamus requiring the said E.F., Esquire, as such justice, (*state the proceeding required, for example,* to take the recognizance of the said A.B. to prefer and prosecute an indictment against the said C.D. before the Court by which the said C.D. would be tried if the said E.F. had committed him for trial on the charge above mentioned) or for such other order as may be proper.

And take notice that upon such motion will be read the affidavit of ———, filed herein, and the exhibits therein referred to.

Dated this ——— day of ———, A.D. 19—.

To the said C.D.
and to the said E.F.

(Signed) G.H., Solicitor for the said A.B.

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950. AFFIDAVIT FOR MANDAMUS

IN THE HIGH COURT OF JUSTICE.

In the matter of, etc. (*as in the above notice of motion*).

I, A.B., of the ——— of ——— in the County of ——— (*occupation*) make oath and say:—

1. I am the above named prosecutor in the matter above mentioned.

2. That on the ——— day of ———, A.D. 19—, at the ——— of ——— in the County of ———, I duly laid an information on oath before E.F., Esquire, a justice of the peace in and for the said County of ———, a true copy of which information is now shewn to me, marked exhibit "A" to this my affidavit.

3. That on the ——— day of ———, A.D. 19—, the said matter came on to be heard at the said ——— of ——— before the said justice in the presence and hearing of the said C.D. and of myself and all witnesses called by both parties having been duly examined in the presence and hearing of the said C.D. and myself, and the said matter having been duly heard the said E.F. as such justice dismissed the charge and discharged the said C.D.

4. That immediately thereupon, and at the said time and place, I, as the prosecutor, verbally informed the said justice that I desired to prefer an indictment respecting the said charge, and I then and there verbally required the said justice to bind me over to prefer and prosecute such an indictment before the Court at which the said C.D. would have been tried if the said justice had committed him for trial, and I then and there offered to enter into the recognizance required by section 688 of the Criminal Code of Canada.

5. The said justice answered my said request by saying that he would not bind me over or take any further step in the said matter (*or otherwise setting out what the justice said, in answer to the request*) and the said justice then and there refused and still refuses to accede to or comply with my said request, and to bind me over to prefer and prosecute an indictment as hereinbefore stated.

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951. ORDER OF MANDAMUS.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. } ——— the ——— day of ———, 19—.

In the matter of, &c. (*as in the above form of notice of motion*).

Upon reading the notice of motion served herein that an order of mandamus do issue, directed to E.F., requiring him to (*here state the duty to be performed, or the thing to be done, as claimed or ordered*), and the affidavit of service thereof upon reading the affidavits of A.B. and G.H. and upon hearing the counsel (*or* solicitor) for the said A.B., C.D., and E.F., (*as the case may be*) and it appearing that (*here insert the necessary inducements and averments*).

1. It is ordered peremptorily that the said E.F. be and he is hereby commanded that he do forthwith after the service hereof

(*here insert the duty to be performed, or the thing to be done as ordered*).

2. And it is hereby further ordered that the costs of this application be paid by the said C.D. to the said A.B., forthwith after taxation thereof.

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952. FORM OF RETURN.

Indorse on the back of the order the following:

The answer and return of E.F. one of His Majesty's justices of the peace (*or* police magistrate) for the ——— of ——— to this order appear in the schedule hereunto annexed.

E.F.
J.P.

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953. SCHEDULE.

I, E. F., one of His Majesty's justices of the peace (*or* police magistrate) for the ——— of ——— do most humbly certify and return, in accordance with the annexed order, as follows:

1. That I have (*if the return is in obedience to the mandatory part of the order, the words in that part of the order should be inserted here in the past, instead of the future, tense*) as by the said order I am commanded.

E.F. (seal)
J.P. *or* P.M.

CHAPTER XXXVI.

PROHIBITION.

(*Rule 1100.*)

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954. NOTICE OF MOTION FOR PROHIBITION

To Division Court. (*Rule 1100.*)

IN THE HIGH COURT OF JUSTICE.

In the Matter of a certain action in the ——— Division Court in the County of ———.

Between A.B., Plaintiff,
and
C.D., Defendant.

Take notice that a motion will be made before the presiding Judge in Chambers at Osgoode Hall in the City of Toronto on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, or so soon thereafter as the motion can

be heard, on behalf of the above-named C.D. the defendant in the said action, for an order that the said A.B. be prohibited from taking any further proceedings in the said action until further order of the High Court or a Judge thereof; or for such further or other order as may be deemed right.

And take notice that upon and in support of the said motion will be read the affidavit of the said C.D. filed herein and the exhibits therein referred to.

Dated, &c.

G. & H.
Solicitors for the said C.D.

To the Judge of the said Court and to the above-named A.B. and to E. & F. his solicitors.

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955. AFFIDAVIT FOR PROHIBITION

To Division Court.

IN THE HIGH COURT OF JUSTICE.

In the matter of a certain action pending in the ——— Division Court in the County of ———

Between A.B., Plaintiff,
and
C.D., Defendant.

I, C.D., of the ——— of ———, in the County of ———, merchant, make oath and say:

1. On or about the ——— day of ———, 19—, I was served with the paper writing hereto annexed marked Exhibit "A," which purports to be a copy of the summons and particulars of demand issued in an action in the said Division Court at the suit of the above named A.B. against me this deponent, as defendant.

2. On or about the ——— day of ———, 19—, I duly filed with the Clerk of the said Division Court a notice disputing the said claim and the jurisdiction of the Court, a true copy of which notice is now shown to me and marked Exhibit "B."

3. On or about the ——— day of ———, 19—, the said action came up for trial in the said Division Court before His Honor Judge ———, who presided, and who after hearing the evidence for the plaintiff in the said action, gave judgment in his favor for $——— and costs.

4. (*If the want of jurisdiction does not appear on the face of the summons set out the facts which constitute the want of jurisdiction*).

5. I have as I am advised and verily believe a good defence on the merits of the said action (*if such be the case*).

956. ORDER FOR PROHIBITION.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge*) (*Date.*)

In Chambers.

In the Matter of a certain action pending in the ——— Division Court in the County of ——— (*or as the case may be*).

Between A.B., Plaintiff,

and

C.D., Defendant.

Upon the application of the defendant, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the defendant and the plaintiff, and it appearing that the said plaintiff has entered an action against C.D. in the said Court, and that the said Court has no jurisdiction in the said cause or to hear and determine the said action by reason that (*state facts showing want of jurisdiction*):

1. It is ordered that the said plaintiff be and he is hereby prohibited from further proceeding in the said action in the said Court.

2. And it is further ordered that the costs of this application be ———.

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957. NOTICE OF MOTION FOR PROHIBITION

To Magistrate.

IN THE HIGH COURT OF JUSTICE.

In the matter of an information (*or* complaint) laid before E.F., justice of the peace in and for the County of ———, by A.B. against C.D. for (*set out the charge*).

Take notice that a motion will be made on behalf of the above named C.D. before the presiding Judge in Chambers at Osgoode Hall, in the City of Toronto, on ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the motion can be made, for an order that E.F., Esquire, ———, a justice of the peace in and for the County of ———, be prohibited from taking any further proceedings in the said matter, and particularly from convicting the said C.D. on the said charge (*or as the case may be*) on the grounds that the said E.F. has no jurisdiction over the same (*or as the case may be, stating the grounds*), and upon grounds disclosed in the affidavit of the said C.D. (and ———), filed herein, or for such other order as may be proper. And take notice that upon such motion will be read the affidavit of the said C.D., this day filed herein (*and any other affidavits*) and the exhibits therein referred to.

Dated this ——— day of ———, A.D. 19—.

Solicitor for the said C.D.

To the said A.B. and to
E.F., Esquire, the said justice.

958. AFFIDAVIT FOR PROHIBITION

To Magistrate.

IN THE HIGH COURT OF JUSTICE.

In the matter of an information (*or* complaint) laid before E.B., Esquire, a justice of the peace in and for the County of ———, by A.B. against C.D. for (*set out the charge*).

I, ———, of the ——— of ———, in the County of ——— (*merchant*), make oath and say:—

1. That I am the above named C.D.

2. That on or about the ——— day of ———, A.D. 19—, an information was laid by the above named A.B. a true copy of which is now shewn to me marked Exhibit A.

3. On the ——— day of ———, A.D. 19—, I was served with the copy of summons thereon, which is now shewn to me marked Exhibit B.

4. That the said matter came on for trial before E.F. of the ——— of ———, in the County of ———, a justice of the peace in and for the said county, and I thereupon, through G.H., my counsel (*or* agent *as the case may be*), objected to the jurisdiction of the said justice of the peace to entertain the said information and proceedings, or to hear the said matter, inasmuch as I claimed to justify the said alleged trespass by right and title to the land upon which the said trespass was alleged to have been committed.

5. That I did there and then offer to prove before the said justice that I did *bona fide* claim the right and title to the said land, and that the same was my land and freehold (*or whatever other fact or facts were relied on before the said justice as shewing the want of jurisdiction*) and that I had reasonable grounds for my said claim.

6. That the said land upon which the said alleged trespass was supposed to be committed is (*describe the property*).

7. That I did at the time when the said supposed trespass was committed *bona fide* claim, and from thence continually hereto have *bona fide* claimed and still claim the soil or freehold of the said land (*or as the case may be*) by virtue of a conveyance (*or as the case may be*) thereof heretofore made to me by one G.H., dated the ——— day of ———, A.D. 19—, (*or in such other way as the party claims title*).

8. That the said land so alleged to have been trespassed upon is a part of the land conveyed (*or as the case may be*) as aforesaid; and that the said A.B. in the said proceeding claims the said land adversely to me, and contends, as I believe, that it belongs to him, which, I say is not the case.

9. That the said justice (*or* magistrate) notwithstanding my said objection, and notwithstanding my said offer to prove my

said claim of title, and that I had reasonable ground therefor, did proceed, and is proceeding, to hear and determine the said matter.

959. MOTION PAPER ON APPLICATION FOR PROHIBITION

To Magistrate.

IN THE HIGH COURT OF JUSTICE.

Before the Divisional Court. Monday the ——— day of ———, 19—.	In the Matter of an information and complaint laid before ———, Esquire, Police Magistrate in and for the ——— of ———, by ——— ——— against ——— for (*set out charge.*)

Motion on behalf of the above-named ——— (*defendant*), upon reading the affidavits of the aforesaid defendant and of ———, with the exhibits therein referred to, filed, for an order calling upon ———, Esquire, Police Magistrate in and for the ——— of ———, and ———, the informant, upon notice to them of such order to be served upon them, to show cause why the said ———, Esquire, (*Magistrate*) should not be prohibited from proceeding to convict the said defendant without receiving and hearing his evidence on his own behalf, or, in the alternative, why he should not be compelled, before convicting the said defendant, so to receive and hear his evidence on his own behalf (*or as the case may be*), with costs, and in the meantime that all proceedings be stayed.

Of Counsel for defendant.

960. ORDER FOR PROHIBITION TO MAGISTRATE.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. ——— the ——— day of ———, A.D. 19—.

In the matter of an information laid before E.F., Esquire, a justice of the peace (*or* police magistrate), for the ——— of ——— by A.B. against C.D. for (*set out the charge*).

Upon the application of the above named C.D. and upon reading his affidavit filed, and upon hearing the solicitors (*or* counsel) for said A.B. and C.D. and E.F. respectively (*as the case may be*) and it appearing that the said E.F., Esquire, as such justice of the peace (*or* magistrate) has no jurisdiction to hear and determine the said matter, by reason that (*state facts shewing want of jurisdiction*), it is ordered that the said E.F., Esquire, as such justice (*or* magistrate), be and he is hereby prohibited from further proceeding in the matter of the said information; and it is further ordered, that the costs of this application be paid by the said A.B. to the said C.D. forthwith after taxation thereof.

CHAPTER XXXVII.

QUASHING MUNICIPAL BY-LAWS.

Municipal Act, 1903, Secs. 378-383.

961. NOTICE OF MOTION TO QUASH BY-LAW.

IN THE HIGH COURT OF JUSTICE.

In the Matter of By-law Number ——— of the Township of ———.

Between A.B., Applicant,
and
The Municipal Corporation of the Township of ———, Respondents.

Take notice that the Court will be moved at Osgoode Hall in the City of Toronto on behalf of A.B. of the ——— of ———, farmer, on ——— day the ——— day of ——— instant, at the hour of ——— o'clock in the forenoon, or so soon thereafter as counsel can be heard, for an order that By-law Number ——— passed on the ——— day of ———, 19—, by the Municipal Council of the Township of ——— and entitled "A by-law to ———," be quashed, upon the following among other grounds:—

(*Here set out the grounds fully.*)

And take notice that in support of said motion will be read a certified copy of the said By-law, and the affidavits of ——— filed herein, and the exhibits in the said several affidavits referred to.

Dated the ——— day of ———, 19—.

Solicitor for the applicant A.B.

To the Municipal Corporation of the Township of ———.

Note.—Seven clear days notice of motion must be given. See The Municipal Act Sec. 378, ss. (2).

962. AFFIDAVIT ON MOTION TO QUASH BY-LAW.

IN THE HIGH COURT OF JUSTICE.

In the matter of By-law Number ———, of the Township of ———, in the County of ———.

Between A.B., Applicant,
and
The Corporation of the Township of ———, Respondents.

I, A.B., of, &c., Farmer, make oath and say:—

1. I am a resident in, and ratepayer of, the Township of ——— aforesaid.

2. Now produced, and shown to me, and marked Exhibit A to this my affidavit, is a copy of the above-mentioned By-law, Number ———, of the said Township, certified under the hand of C.D. Clerk of the said Township and under the Corporate Seal of the said Township, which said certified copy of the said By-law I received from the said Clerk.

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963. RECOGNIZANCE ON APPLICATION TO QUASH BY-LAW.

In the High Court of Justice.

In the Matter of By-law Number ——— of the ——— of ——— in the County of ———.

Between A.B., Applicant,

and

The Corporation of the Township of ———, Respondents.

Province of Ontario.

County of ———.

To Wit:

Be it remembered that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— before me, ———, Judge of the County Court of the said County of ———, come A.B., of the Township of ——— in the said County, (*occupation,*) and C.D., of the same place, (*occupation,*) and J.H., of the same place, (*occupation,*) and acknowledge themselves severally and respectively to owe to our Sovereign Lord the King, as follows, that is to say, the said A.B. the sum of Fifty Dollars, and the said C.D. and J.H. the sum of Fifty Dollars each, upon condition that if the said A.B. do prosecute with effect the motion to quash By-law Number ——— of the said Township of ———, proceedings to that end being now instituted at the instance of the said A.B. against the said Municipal Corporation of the Township of ———; and if the said A.B. do pay to the said Municipal Corporation of the Township of ——— any costs which may be adjudged to them against the said A.B., then this recognizance to be void, otherwise to remain in full force.

Taken and acknowledged the
day and year first above
mentioned before me.

Judge.

964. AFFIDAVIT OF JUSTIFICATION OF SURETIES.

IN THE HIGH COURT OF JUSTICE.

In the Matter of By-law Number ——— of the Township of ——— in the County of ———.

Between A.B., Applicant,
and
The Corporation of the Township of ———, Respondents.

I, C.D. of the ——— of ——— in the County of ———, (*occupation,*) one of the sureties in the recognizance hereto annexed, make oath and say:

1. I am a resident inhabitant of Ontario residing at ———, and am a householder (*or* freeholder) in ———.

2. I am worth and own property to the amount of Fifty Dollars over and above what will pay all my debts and any other sum for which I am now liable or for which I am bail or surety.

3. I am not bail or surety in any other action or proceeding (*if so*: except for G.H. in an action in the High Court of Justice in which E.F. is plaintiff and G.H. is defendant in the sum of $———, *or as the case may be, specifying the several causes or matters, the Court in which each is and the sums in which the deponent is bail or surety*).

4. And I, J.H., of the ——— of ——— in the County of ———, (*occupation,*) make oath and say as follows:

(*In similar terms as the case may require, or separate affidavits may be made.*)

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965. ORDER QUASHING BY-LAW.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. } ——— the ——— day of ———, 19—.

In the Matter of By-law Number ——— of the Township of ———.

Between A.B., Applicant,
and
The Municipality of ——— the Township of ———, Respondents.

Upon motion made unto this Court this day by Mr. ——— of counsel for the applicant, in the presence of counsel for the respondents, upon hearing read the recognizance of the said A.B. ——— filed in answer and the affidavit of ——— filed in reply, and his sureties in the premises, and the affidavits of ——— and ——— filed in support of the said motion and the affidavit of ——— and the exhibits in the said several affidavits referred to, and upon hearing what was alleged by counsel aforesaid:

1. This Court doth order that By-law Number ——— passed on the ——— day of ———, 19—, by the Municipal Council of the Township of ——— and entitled "A By-law to repeal By-law Number ———" be and the same is hereby quashed.

2. And this Court doth further order that the costs of and incidental to this application be paid by the respondents to the applicant forthwith after taxation thereof.

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966. CERTIFICATE OF PENDING ACTION

Attacking the Validity of By-law, Sec. 399.

IN THE HIGH COURT OF JUSTICE.

This is to certify that in a certain action or proceeding in this Court entitled

In the matter of By-law No. ——— of the City of ———,

Between A.B., Applicant,

and

The Corporation of the City of ———, Respondent.

The validity of By-law No. ———, entitled "———," has been called in question. (*If a portion only of the by-law is called in question, state the facts.*)

Dated at ——— the ——— day of ———, 19—.

[SEAL.]

Deputy Clerk of the Crown,
County of ———.
(*Or as the case may be.*)

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967. CERTIFICATE OF DISMISSAL OF ACTION.

Section 399.

IN THE HIGH COURT OF JUSTICE.

I hereby certify that the action or proceeding in this Court entitled (*give style of action or proceeding*) calling in question the validity of By-law No. ———, of the City of ——— in the County of ———, has been dismissed (*or, if dismissed in part and granted in part, set out the order made verbatim*).

Dated at ——— the ——— day of ———, 19—.

[SEAL.]

Clerk of ———.

CHAPTER XXXVIII.

CONTROVERTED MUNICIPAL ELECTIONS.

Municipal Act, 1903, Sec. 219, et seq.

968. FIAT IN QUO WARRANTO PROCEEDINGS.

Authorizing Service of Notice of Motion. Municipal Act, 1903, Section 220.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as the case may be.*) } ——— day the ——— day of ———, 19—.

The King upon the relation of A.B., Plaintiff,
against
C.D., Defendant.

Upon the application of the above named A.B., upon reading the within notice of motion and the affidavits and recognizance therein referred to:

Let the notice of motion aforesaid be served on the defendant.

Master in Chambers
(*Or as the case may be.*)

Note.—The fiat may be given within six weeks after the facts come to the knowledge of the relator. 7 Edw. VII. (1907), Ch. 40, Sec. 5.

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969. NOTICE OF MOTION TO SET ASIDE MUNICIPAL ELECTION.

Municipal Act, Sec. 220.

IN THE HIGH COURT OF JUSTICE (*or* IN THE COUNTY COURT OF THE COUNTY OF ———).

The King upon the relation of A.B., Plaintiff,
against
C.D., Defendant.

Take notice that by leave of (the Honourable Mr. Justice ——— *or* the Master in Chambers, *or* His Honour E.F., Esquire, Judge of the County Court of ———) a motion will be made on behalf of the above-named A.B. (*setting out his name in full, occupation, place of residence, and the interest which he has in the election as candidate or voter*) before the presiding Judge (*or as the case may be*) in Chambers at ——— on ——— day the ——— day of ———, 19—, at ——— o'clock in the ——— noon, or so soon thereafter as the motion can be heard, for an order declaring that ——— of ——— (*here inserting the names and additions of all, if more than one person*) hath (*or* have) not been duly elected, and hath (*or* have) unjustly usurped and still doth (*or* do) usurp

the office of ——— in the Town of ——— (*or* Township of ———, *as the case may be*) in the County (*or* United Counties) of ———, under the pretence of an election held on ——— at ——— in the said County (*or* United Counties) and (*when it is claimed that the relator, or the relator and another or others ought to have been returned*) that (*here name the party or parties so entitled*) was (*or* were) duly elected thereto, and ought to have been returned at such election, and declaring that he the said relator hath an interest in the said election as a ——— upon the following among other grounds, that is to say:—

First: That (*for example*) the said election was not conducted according to law, in this, that, &c.

Second: That the said ——— was not duly or legally elected or returned, in this, that, &c.

Third: That, &c.

Or for such further or other order as may be deemed proper.

And take notice that upon and in support of the said motion will be read the affidavits of ——— and ——— filed herein and the exhibits therein referred to, and the depositions of ——— and ——— and of such other persons as shall be examined as witnesses on behalf of the plaintiff.

(*Signed by the relator in person or by C.D. his solicitor.*)

Note.—Where the intention of the relator is to impeach the election as altogether void, in that event, as the office cannot be claimed for any other or others, the portion of the above relating thereto should be omitted. Seven clear days notice of motion must be given. See Sec. 221 of The Municipal Act.

970. AFFIDAVIT OF RELATOR.

IN THE HIGH COURT OF JUSTICE (*or,* IN THE COUNTY COURT OF THE COUNTY OF ——— (*as the case may be*).

The King upon the Relation of A.B., Plaintiff,
against
C.D., Defendant.

I, A.B., of the ——— of ———, in the County of ———, (*occupation,*) make oath and say:

1. I am the relator above-named; and my name, occupation, place of residence, and the interest which I have in the election referred to in the notice of motion, now produced and shown to me, and marked exhibit "A" to this my affidavit, are truly set forth in the said notice of motion.

2. I believe the several grounds which are set forth in the said notice of motion against the validity of the election therein mentioned are well founded.

971. AFFIDAVIT OF SERVICE OF NOTICE OF MOTION.

(*Court and style of cause as in notice of motion.*)

I, ———, of ——— in the County of ———, (*addition or occupation*), make oath and say:—

1. That I did on the ——— day of ———, 19—, personally serve the above-named defendant with the notice of motion hereto annexed, marked exhibit "A," by delivering to and leaving with him, the said defendant, a true copy of the said notice of motion.

972. RECOGNIZANCE.

Section 220, Subsection 2.

IN THE HIGH COURT OF JUSTICE (*or* IN THE COUNTY COURT OF THE COUNTY OF ———.)

The King upon the relation of A.B. against C.D.

PROVINCE OF ONTARIO.

County of ———.

To wit:

Be it remembered that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— before me ———, Master in Chambers (*or* Judge of the County Court of ——— *or* Commissioner for taking affidavits or bail in His Majesty's High Court of Justice) come A.B. of ——— the above named relator and E.F. of ——— and G.H. of ———, and acknowledge themselves severally and respectively to owe to our Sovereign Lord the King as follows, that is to say, the said A.B. the sum of two hundred dollars, and the said E.F. and G.H. the sum of one hundred dollars each, upon condition that if the said A.B. do prosecute with effect the motion in the nature of a *quo warranto* notice of which is to be served on an order or fiat to be made at the instance and upon the relation of the said A.B. against the said C.D. for an order declaring that he the said C.D. hath not been duly elected to the office of (*here state the office claimed*) and removing the said C.D. therefrom and (*where so claimed by the relator*) declaring that he the said relator (*or the party or parties entitled*) was duly elected and should be admitted to the said office; and if the said A.B. do pay to the said C.D. any costs which may be adjudged to him against the said A.B. then this recognizance to be void, otherwise to remain in full force.

Taken and acknowledged the
day and year first above
mentioned before me.

(*Signature of Master in Chambers, Judge or Commissioner.*)

973. AFFIDAVIT OF JUSTIFICATION.

IN THE HIGH COURT OF JUSTICE.

(*Or* IN THE COUNTY COURT OF THE COUNTY OF ———.)

The King upon the relation of A.B. against C.D.

I, E.F., of, &c., one of the sureties in the recognizance hereto annexed, make oath and say as follows:

1. I am a freeholder (*or* householder, *as the case may be*) residing at, &c.

2. I am worth property to the amount of one hundred dollars over and above what will pay all my just debts (*if bail in any other action, add*: and every other sum for which I am now bail).

3. I am not bail in any other action or proceeding. (*If so*: except for X.Y. at the suit of L.M. in the High Court of Justice, *or as the case may be*, in the sum of, &c., *setting out all cases in which the deponent is bail*).

4. And I, G.H., also one of the sureties in the recognizance hereto annexed, make oath and say as follows:

5. I am a freeholder, &c. (*proceed as above.*)

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974. DISCLAIMER.

Before Notice of Motion Served, Sec. 240.

I, A.B., do hereby disclaim all right to the office of Township Councillor (*or as the case may be*) for the Township of ——— in the County of ——— (*or as the case may be*), and all defence of any right I may have to the same.

Dated, &c.

(*Signature of party disclaiming.*)

To the Clerk of the Corporation of ———.

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975. DISCLAIMER.

After Notice of Motion Served, Sec. 238.

(*Court and Style of Cause.*)

I, C.D., upon whom a notice of motion has been served for the purpose of contesting my right to the office of Township Councillor (*or as the case may be*) for the Township of ——— in the County of ——— (*or as the case may be*), do hereby disclaim the said office and all defence I may have of any right to the same.

Dated, &c.

(*Signature of the party disclaiming.*)

To the Clerk of the Corporation of ———.

If the proceedings are pending in the High Court, then add: And to the Clerk in Chambers at Osgoode Hall, Toronto.

Or if the proceedings are pending in a County Court, then add: And to the Judge of the County Court of the County of ———.

976. ORDER FOR TRIAL OF ISSUE.

Section 232.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as the case may be.*) } ——— day the ——— day of ———, 19—.

The King upon the relation of A.B., Plaintiff,

against

C.D., Defendant.

Upon the application of His Majesty the King upon the relation of A.B. to set aside the election of C.D. chosen upon the ——— day of ———, 19—, to be ——— for the Township of ——— (*or as the case may be*) in the County of ———; and for an order declaring that the said A.B. was duly elected and ought to have been returned, it hath become material to ascertain whether (*here state concisely the issues to be tried*): and that the truth of such matters as aforesaid should be found by a jury;

It is therefore ordered, pursuant to subsection 2 of section 232 of The Municipal Act, in such case made and provided, that an issue be tried between the said relator and the said C.D. before the Judge of the County Court of the County of ——— and a jury of the said County, and that the question (*or questions*) to be tried shall be whether (*here state the issues*).

977. INDORSEMENT OF VERDICT

After Trial of an Issue.

I hereby certify that on the ——— day of ———, before me, L.M., Judge of the County Court of the County (*or* United Counties) of ——— (*or as the case may be*) came as well the within named relator as the within named (*the other party or parties*) by their solicitors (*or as the case may be*) (and the jurors, (*if a jury*), by me duly summoned as within commanded, also came, and being sworn to try the matters within mentioned on their oath, said that,) &c.

978. ORDER AVOIDING MUNICIPAL ELECTION

And Disqualifying Opponent.

IN THE HIGH COURT OF JUSTICE.

The Master in Chambers (*or as the case may be*). } ——— day the ——— day of ———,19—.

The King upon the relation of A.B., Plaintiff,

against

C.D., Defendant.

Upon the application of His Majesty the King upon the relation of the above named relator A.B., complaining that C.D. of

the Township of ——— in the County of ———, Esquire, though not duly elected, hath unjustly usurped and still doth usurp the office of ——— of the Township of ——— in the County of ———, under pretence of an election holden on the ——— day of ——— last at the said Township of ———, and the said C.D. having been duly summoned to answer the matters aforesaid charged against him in the statement and relation herein, upon reading the said statement and relation and the evidence taken before ——— with the exhibits in said evidence referred to, and upon hearing counsel for the said defendant and for the said relator, and judgment having been reserved until this day:

1. It is adjudged and determined that the said relator A.B. had at the time of his making his aforesaid complaint an interest in the election to the said office of ——— as an elector of the said Township of ———.

2. And it is further adjudged and determined that the said C.D. hath usurped and doth still usurp the said office under pretence of an election thereto holden on the ——— day of ——— last at the said Township of ———, and that the election aforesaid of the said C.D. to the said office was and is void, and that the said C.D. before and during and after the election aforesaid was by himself and by other persons his agents, and by other persons on his behalf, and with his actual knowledge and consent, guilty of bribery as defined by The Municipal Act, in respect of voters who voted at the said election, and that by reason of the premises the said C.D. hath forfeited his seat as ——— of the said Township of ——— in virtue of the election aforesaid (and has become and he is hereby declared and adjudged to be henceforth ineligible as a candidate at any municipal election for the term of two years from this date.)

3. And it is further adjudged and ordered that the said C.D. be removed from the office aforesaid and do not in any manner concern himself in or about the said office, but that he be absolutely forejudged and excluded from further using or exercising the same under pretence of the said election.

4. And it is further ordered and adjudged that the said relator do recover against the said C.D. his costs and charges by him in and about the said relation and prosecution thereof expended, to be taxed.

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979. JUDGMENT DECLARING MUNICIPAL ELECTION VOID

And Declaring Relator Entitled to Office or Directing New Election.

IN THE COUNTY COURT OF THE COUNTY OF ——— (*or* IN THE HIGH COURT OF JUSTICE.)

The King upon the Relation of A.B.
against
C.D.

Be it remembered that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ———, at the County Judge's Chambers in the City of ———, before me ———, Judge of the County Court of the County of ———, came as well the above-named relator by Mr. ———, his counsel, as the above-named C.D., by Mr. ———, his counsel, and upon the said day, at my Chambers aforesaid, having heard and read the notice of motion hereunto annexed and proofs of the said relator touching and concerning the usurpation by him alleged against the said C.D. of the office of alderman for Ward Number ——— in the City of ——— in the said notice of motion mentioned, and the election of the said C.D., and the answers and proofs of the said C.D., and having heard the said parties by their counsel, and upon due consideration of all and singular the premises, now, that is to say, this ——— day of ——— in the year aforesaid:

1. I do adjudge and determine that the said C.D. had not at the date of his said election as alderman the property qualification requisite to enable him to be elected to the said office (*or as the case may be.*)

2. And I do adjudge and determine that the said C.D. hath usurped and doth still usurp the said office, and that he be removed therefrom (*if the relator is entitled to the office add*:) and the said A.B. is entitled to the said office, was elected thereto, and should have been returned and is entitled by law to be received into and to use, exercise and enjoy the said office.

3. And I do adjudge and determine that the said C.D. do not in any manner concern himself in or about the said office, but that he be absolutely forejudged and excluded from further using or exercising the same under pretence of the said election.

4. And I do further order, adjudge and determine that the said relator do recover against the said C.D. his costs and charges in and about the said relation and the prosecution thereof expended, to be taxed in the said Court.

5. All which said notice of motion and the said judgment, and the statements, answers and proofs of the said relator and of the said C.D., and all other things had before me touching the same, I do hereby certify to the Clerk of the County Court of the County of ——— according to the form of the Statute in such case made and provided.

6. Afterwards, that is to say, on the ——— day of ——— in the year of our Lord one thousand nine hundred and ———, cometh the said A.B. and prayeth that his said costs, so as aforesaid adjudged to him, be taxed and assessed according to the form of the Statute in such case made and provided, and the said costs of the said A.B. in and about his prosecution aforesaid so as aforesaid adjudged to him are now here accordingly taxed and assessed to him at the sum of $———.

(*If the relator is not declared entitled to the office but a new election is ordered to be held say as follows*:)—

7. And I do further command the Corporation of the City of ——— and any returning officer or other person or persons or such of the said Corporation to whom the same shall of right belong, that they, the said Corporation, do, pursuant to and according to the Statute in that behalf, cause an election to be as speedily held as shall be lawful, for the election of a person in the place or stead of the said C.D. who has been removed as aforesaid; and that the said Corporation or such of the said Corporation to whom the same does of right belong do administer to the person who shall be so elected the oath, if any, in that behalf by law directed, and that the said Corporation do admit or cause to be admitted such person so elected into the said office, and that the said Corporation do make a return to this order according to law.

Dated at ——— this ——— day of ———, 19—.

980. JUDGMENT IN FAVOR OF THE RELATOR.

IN THE HIGH COURT OF JUSTICE.

Before the Honourable Mr. Justice ———, In Chambers, *or before the Master in* Chambers (*as the case may be*). | ——— day, the ——— day of ———, A.D. 19—.

Between the King, on the relation of A.B.
against
C.D. and E.F. (*or as the case may be*).

Be it remembered, that upon ——— the ——— day of ———, 19—, at ——— Chambers in the ——— ——— before me, the Honourable Mr. Justice ——— (*or as the case may be*) came as well the above named relator as the above named respondent by their respective solicitors, and upon the said day at my Chambers aforesaid, having heard and read the notice of motion given herein by the said relator and the proofs of the said relator touching and concerning the usurpation by him alleged against the said respondent C.D. of the office of ——— in the said notice of motion mentioned and the answers and proofs of the said respondents respectively, and having heard the said parties by their counsel and upon due consideration of all and singular the premises. Now, that is to say this ——— day of ———, 19—, I do adjudge and determine:—

First: That the said relator had at the time of his making of his aforesaid complaint an interest in the election to the said office ——— of ——— as ———.

Secondly: That the said ——— hath usurped, and doth still usurp the said office.

Thirdly: That the said relator (*or* the said ———) was duly elected thereto and ought to have been returned and is entitled in law to be received into and to use, exercise and enjoy the said office (*or* that the said ——— is not entitled in law to be received into or to use, exercise and enjoy the said office).

Fourthly: That the defendant E.F. was guilty of misconduct as returning officer at the said election.

1. And I do adjudge and determine that the said C.D. do not in any manner concern himself in or about the said office and that he be absolutely forejudged and excluded from further using or exercising the same under pretence if the said election and that he be and he is hereby removed therefrom; (*in case the Judge determines that the relator or some other person was duly elected continue as follows*:)—

2. And that the said ——— be forthwith admitted, received and sworn into the said office, in the place and stead of the said C.D. to use, exercise and enjoy the same. (*In case the Judge determines that no other person was duly elected instead of the person removed, in lieu of the foregoing paragraph substitute the following*:)—

2. And that the council of the municipality corporation of the ——— of (*or* the Sheriff of the county (*naming the county on which the election took place*) do forthwith pursuant to "*The Municipal Act*," cause to be held an election of a person or persons in the place and stead of the said C.D., etc., ——— who has (*or* have been) removed as aforesaid and that the person (*or* persons) so elected be forthwith admitted, received and sworn into the said office to use, exercise and enjoy the same.

3. And that the said relator do recover against the said ——— his costs and charges by him in and about the said relation and the prosecution thereof expended, to be taxed.

All which, the said notice of motion and the statements, answers and proofs of the said relator and of the said respondents and all other things had before me touching the same, I hereby certify and deliver into the said Court according to the form of the Statute in such case made and provided.

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981. JUDGMENT FOR RESPONDENT.

Be it remembered, that upon ——— the ——— day of ———, 19—, at ——— Chambers in the ——— of ——— before me, the Honourable Mr. Justice ——— (*or as the case may be*) came as well the above named relator as the above named respondent by their respective solicitors and upon the said day at my Chambers aforesaid, having heard and read the notice of motion given herein by the said relator and the proofs of the said relator touching and

concerning the usurpation by him alleged against the said respondent C.D. of the office of ——— in the said notice of motion mentioned and the answers and proofs of the said respondents respectively, and having heard the said parties by their counsel and upon due consideration of all and singular the premises. Now, that is to say this ——— day of ———, 19—, I do adjudge and determine:—

1. That the said office of ——— under the election to the said office holden on the ——— day of ———, 19—, be allowed and adjudged to the said respondent C.D., and that the said respondent C.D. be dismissed and discharged of and from the premises above charged upon him.

2. And that the said C.D. or C.D. and E.F. do recover against the said A.B. his or their costs by him, or by them respectively, laid out and expended in defending himself, or themselves respectively, in this behalf to be taxed.

All which, the said notice of motion and the statements, answers and proofs of the said relator and of the said respondents and all other things had before me touching the same, I hereby certify and deliver into the said Court according to the form of the Statute in such case made and provided.

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982. WRIT OF FIERI FACIAS

Against Defendant for Relator's Costs of Motion to Set Aside Municipal Election.

ONTARIO.

IN THE HIGH COURT OF JUSTICE (*or* IN THE COUNTY COURT OF THE COUNTY OF ———.)

The King upon the relation of A.B., against C.D.

GEORGE THE FIFTH, &c.

To the Sheriff of the County of ———, Greeting:

We command you that you levy or cause to be levied of the goods and chattels of C.D. of ——— (*add the name of the returning officer where the execution is against him*) the sum of $——— which hath been lately adjudged to A.B. of ——— in our High Court of Justice at Toronto (*or as the case may be,*) according to the form of the statute in such case made and provided, for his costs by him paid out and expended in the prosecuting of a certain motion in the nature of a *quo warranto,* lately pending before our said Court against the said C.D. at the relation of the said A.B. for usurping the office of ——— in our ——— of ——— in your County (*add when the returning officer is a party*: to which proceeding the said (*returning officer*) was made a party) and whereof the said C.D., &c., is (*or* are) convicted, as in our said Court appears of record, and that you have that money before our said Court at Toronto aforesaid, and have you then there this writ.

Witness, &c.

Place of issue in margin and indorsements.

PART III.

PROCEEDINGS UNDER SPECIAL ACTS.

CHAPTER XXXIX.

THE ABSCONDING DEBTORS ACT.

9 Edw. VII. (1909), Ch. 49.

983. AFFIDAVIT FOR ORDER.

1. I am the above-named plaintiff.

2. The above-named defendant is indebted to me, this deponent, in the sum of $———, being the amount due on a certain promissory note made by him for $———, dated the ——— day of ———, 19—, and payable three months after date thereof, with interest at 6% per annum (*or as the case may be*).

3. I have good reason to believe, and do verily believe, that the above-named defendant has departed from Ontario, and has gone to some place in the State of Michigan, one of the United States of America (*or as the case may be, or showing that the place is unknown*), with intent to defraud me of my just debts or to avoid being arrested or served with process, and was at the time of his so departing possessed of real or personal property, credits or effects, not exempt by law from seizure to his own use and benefit in Ontario.

984. FURTHER AFFIDAVIT FOR ORDER

Required by Section 2 of Absconding Debtors Act.

We, E.F., of, &c., and G.H., of, &c., severally make oath and say:—

1. We are well acquainted with the above-named defendant, and have good reason to believe, and do verily believe, that the said defendant has departed from Ontario with intent to defraud the plaintiff, or to avoid being arrested or served with process.

985. ORDER FOR ATTACHMENT OF GOODS

Of Absconding Debtor. (*Rule 1058.*)

1. It is ordered that the sheriff of ——— do attach, seize and safely keep all the real and personal property, credits and effects,

together with all evidences of title or debts, books of account, vouchers and papers belonging thereto of the defendant to secure and satisfy certain debts due to the plaintiff amounting to $———, with his costs of suit, and to satisfy the debts and demands of such other creditors of the said defendant as shall duly place their orders of attachment in the hands of the said sheriff or otherwise lawfully notify him of their claims and duly prosecute the same.

2. And it is further ordered that the said defendant do within ——— days after the service of this order on him, inclusive of the day of such service, cause special bail to be entered for him in the High Court of Justice in this action to recover $——— at the suit of the said plaintiff.

3. And it is further ordered that in default of the defendant's putting in special bail as aforesaid the said plaintiff may by leave of the Court or a Judge proceed therein to judgment and execution, and may sell the property so attached.

4. And it is further ordered that the said sheriff, as soon as this order has been executed, do return the same with the inventory and appraisement of what he has attached hereunder.

This order is issued in duplicate pursuant to the Rules of Practice of this Honourable Court.

Note.—The attaching order shall be issued in duplicate and shall be so marked on its face. Rule 1059.

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986. NOTICE OF ORDER

Attaching Debts Due to Absconding Debtor.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

Take notice that an order has been made herein whereby all debts due to the above-named defendant and all the property and effects of the said defendant have been attached, and you are hereby notified not to pay any debt or demand to the said C.D. or to deliver any property or effects to him or to anyone for him.

Dated, &c.

To ———.

Solicitor for the plaintiff.

CHAPTER XL.

THE FRAUDULENT DEBTORS ARREST ACT.

9 Edw. VII. (1909), Ch. 50.

987. AFFIDAVIT FOR ORDER OF ARREST.

1. The above named defendant is indebted to me this deponent, in the sum of $———, being the amount due, &c., (*set out the particulars of the debt or damages as the case may be*).

2. (*Set out the facts and circumstances that go to show that the defendant is about to quit Ontario with intent to defraud his creditors generally or the plaintiff in particular.*)

3. There is good and probable cause for believing and I verily believe that the defendant, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or me this deponent in particular of the moneys so justly due to me as aforesaid.

988. AFFIDAVIT FOR ORDER OF ARREST.

Another Form.

1. That I am the husband and agent of the above named plaintiff in this action, and have full knowledge of all the facts and circumstances of this case.

2. That the above named defendant is indebted to the above named plaintiff in the sum of $——— being the amount of a promissory note (*or as the case may be*), made up as follows: (*give particulars*).

3. A short time after said promissory note was given the said defendant quit the Province of Ontario fraudulently, without satisfying this indebtedness to the said plaintiff, and with intent to defraud his creditors generally and the said plaintiff in particular.

4. The said defendant prior to his absconding from the Province of Ontario was in addition to the amount he owed the said plaintiff indebted to several people in and about the Town of ———. When he left he owed money to ——— of the Town of ———, Hardware Merchant, ——— of the same place, ———, and ——— of the same place, Brickmaker, as I am informed by the said ——— and ———, and verily believe.

5. That the said defendant after absconding from the Province of Ontario as aforesaid took up his residence and has since resided in the Province of Manitoba.

6. That I am informed by one ——— of the Town of ——— aforesaid, mechanic, who is a friend of the said defendant and his sons, and I believe that the said defendant after absconding to the Province of Manitoba sent for his family, and his family removed

to Manitoba, and I am further informed by the said ———, and believe that secretly the goods and chattels or part of them were moved off the farm in question during the night time, with intent to defeat the creditors of the said defendant and the said plaintiff in particular.

7. That I had an interview with the said defendant prior to the year ——— relative to his paying this indebtedness, and he agreed to settle the same before he returned to Manitoba, but he failed to do so and the same still remains unsatisfied.

8. That I have made and caused to be made a number of applications to the defendant for payment of the said claim but with no effect.

9. That the defendant has no real or personal property available for his debts in this Province, as I verily believe.

10. That I am informed by ——— of the City of ———, that the defendant ——— was in ——— in the Province of Ontario last night, and left there last night for ———, and I believe the said defendant is now within the jurisdiction of this Court.

11. I am informed by my solicitor ——— that the said defendant is on his way from England to his home in Manitoba, and I believe that unless apprehended he will return to Manitoba without satisfying this judgment or any part thereof.

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989. ORDER FOR ARREST.

(*Rule 1021.*)

1. It is ordered that the sheriff of the County, United Counties or City where C.D. the defendant (*or* one of the defendants) may be found, do forthwith arrest and take, or if already in custody, do detain the said C.D. and him safely keep until he shall have given security in this action for the sum of $——— (*the amount which may be ordered, or in alimony cases the proper amount under Rule 1022*) or shall by other lawful means be discharged from custody.

2. And it is further ordered that a copy of this order be served by the said sheriff on the said C.D.

3. And it is further ordered that the said C.D. do, within ten days after his arrest under this order, cause security to be put in for him in this Court and in this action, either by the deposit in Court of the said sum of $———, or by bond or other security, pursuant to the Rules of Court in that behalf, conditioned that the defendant will pay the amount by any judgment in the action adjudged to be recovered or directed to be paid either as a debt or for damages or costs, or will render himself to the custody of the sheriff of (*naming the County, or United Counties or City having a sheriff in which the action was commenced*), or that his sureties will do so for him.

990. BAIL BOND TO THE SHERIFF

Under Order for Arrest. (*Rule 1030.*)

Know all men by these presents that we C.D. (*the defendant arrested*) of ———, E.F. of ———, and G.H. of ———, are held and firmly bound to ———, Esq., Sheriff of the County (*or* City) of ———, in the sum of (*usually double the sum endorsed on the writ*) to be paid to the said Sheriff or his attorney, executors, administrators or assigns, for which payment well and truly to be made we bind ourselves, and each of us binds himself, our and each of our heirs, executors and administrators, firmly by these presents.

Dated this ——— day of ———, 19—.

Whereas the above bounden C.D. was on the ——— day of ———, 19—, taken by the said Sheriff under an order for arrest issued out of the High Court of Justice bearing date the ——— day of ———, 19—, in an action at the suit of A.B.:

And whereas a copy of the said order and every memorandum, notice and endorsement subscribed thereto or made thereon was delivered to the said C.D.:

And whereas he is by the said order required to cause security in the said action to be put in for him in the said Court within ten days after his arrest under said order:

Now the condition of this obligation is such that if said C.D. do cause security to be put in for him in the said action, as required by the said order, then this obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered
in the presence of
———

C.D. [SEAL.]
E.F. [SEAL.]
G.H. [SEAL.]

991. AFFIDAVIT OF EXECUTION.

(*Court and Style of Cause.*)

I, ——— of the ——— of ——— in the County of ——— (*addition*) make oath and say as follows:

1. I was personally present and did see the within (*or* annexed) instrument duly signed, sealed and executed by parties thereto.

2. The said instrument was so executed by the said parties at ———.

3. I know the said parties ———.

4. I am a subscribing witness to the said instrument.

992. AFFIDAVIT OF JUSTIFICATION

Of Sureties in Foregoing Bond. (Rule 1037.)

I, A.B. (*name of one surety*) of ———, (*addition*), make oath and say as follows:—

1. I am one of the sureties in the annexed bond.

2. I am a resident inhabitant of Ontario and am a householder (*or* freeholder) in the ——— of ———.

3. I am worth and own property to the amount of $——— (*the penalty in the bond*) over and above what will pay all my debts (*if surety in any other matter add,* and every other sum for which I am now liable or for which I am now bail or surety.)

4. I am not bail or surety for any plaintiff or defendant except in this action (*or if bail or surety in any other action add,* except for G.H. in an action in the High Court of Justice, in which X.Y. is plaintiff and G.H. is defendant, in the sum of ———, *as the case may be, specifying the several causes or matters with the Court in which each is and the sums for which the deponent is bail or surety*).

5. I have not been indemnified for entering into the said bond by the solicitor or solicitors concerned for the defendant.

6. And I, C.D., &c. (*naming the other surety and proceeding to the like effect; or separate affidavits may be made*).

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993. ASSIGNMENT OF BAIL BOND.

I, C.D., the within named Sheriff of ——— have at the request of A.B. the plaintiff also within named, assigned to him, the said A.B. the within written bail bond and all benefit and advantage arising therefrom, pursuant to the statute in that case made and provided.

In witness whereof, I have hereunto set my hand and seal ——— this ——— day of ———, A.D. 19—.

Signed, sealed and delivered by
the within named Sheriff in
the presence of ———.

Sheriff.

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994. BOND ON ARREST IN MESNE PROCESS.

(*Rule 1037.*)

Know all men by these presents that we (*naming the defendant arrested and the sureties with their places of residence and additions*) are jointly and severally held and firmly bound unto (*naming the plaintiff with his place of residence and addition*) in the penal sum of (*double the amount directed by the order to be secured subject to Rule 1036*), for which payment, well and truly to be

made, we bind ourselves and each of us binds himself, our and each of our heirs, executors and administrators, respectively, firmly by these presents.

Dated this ——— day of ———, 19—.

Whereas the above bounden (*naming the person arrested*) was arrested under an order for arrest:

Now the condition of this obligation is such that, if the said (*naming the defendant arrested*) shall pay the amount by any judgment in said action recovered or directed to be paid, either as debt or for damages or costs, or shall render himself or shall be rendered by the said (*naming the sureties*) to the custody of the sheriff of ———, then this obligation shall be void, otherwise shall remain in full force.

In witness whereof we have hereto set our hands and seals the day and year above written.

Signed, sealed and delivered
in presence of

995. NOTICE OF FILING BOND

On Order for Arrest. (*Rule 1040.*)

(*Short Style of Cause.*)

Take notice that I have this day filed in the Central Office, Osgoode Hall, Toronto (*or other proper office*), a bond of the defendant given pursuant to the order for arrest herein, and that the names of the sureties therein are A.B. of ——— in the County of ———, (*addition*), and C.D. of ——— in the County of ———, (*addition*).

Dated this ——— day of ———, A.D. 19—.

996. APPOINTMENT FOR ALLOWANCE OF BOND

Given Pursuant to Order for Arrest. (*Rule 1040.*)

(*Short Style of Cause.*)

I hereby appoint ——— day, the ——— day of ———, 19—, at my office in ———, at the hour of ——— o'clock ——— noon, to consider the allowance of the bond given by defendant pursuant to the order for arrest herein, at which time and place let the parties attend.

Dated, &c.

997. CERTIFICATE OF ALLOWANCE.

(*Short Style of Cause.*)

I (*officer allowing bond or plaintiff or his solicitor*) hereby certify that the security to be given by the defendant under the order for arrest herein, dated the ——— day of ———, A.D. 19—, has been this day allowed.

Dated, &c.

CHAPTER XLI.

THE ASSIGNMENTS AND PREFERENCES ACT.

10 Edw. VII. (1910), Ch. 64.

998. NOTICE OF ASSIGNMENT.

Section 16.

In the matter of ———, of the ——— of ———, in the County of ———, Grocer, Insolvent.

Notice is hereby given that the said ———, carrying on business as a grocer at the said ——— of ———, has made an assignment under The Assignments and Preferences Act, of all his estate, credits and effects, to me ———, of the ——— of ———, in the County of ———, for the general benefit of his creditors.

Assignee.

999. ADVERTISEMENT FOR CREDITORS.

Notice to Creditors.

In the matter of ———, of the ———, in the County of ———, Grocer, Insolvent.

Notice is hereby given that the said ———, carrying on business as a grocer at the said ——— of ——— has made an assignment under The Assignments and Preferences Act of all his estate, credits and effects, to me ——— of the ——— of ——— in the County of ———, for the general benefit of his creditors.

A meeting of creditors will be held at the Office of the said Assignee, in the ——— of ———, on ———, the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, to receive a statement of affairs, appoint inspectors, and for the ordering of the affairs of the estate generally. Creditors are requested to file their claims with the Assignee, with proofs and particulars as required by the said Act, on or before the day of such meeting.

And notice is further given that after the ——— day of ———, 19—, the Assignee will proceed to distribute the assets of the estate amongst the parties entitled thereto, having regard only to the claims of which notice shall then have been given, and that he will not be liable for the assets or any part thereof so distributed, to any person or persons of whose claims he shall not then have had notice.

Assignee.

Solicitors for the Assignee.

Dated at ———,
this ——— day of ———, 19—.

1000. AFFIDAVIT PROVING CLAIM.

In the matter of the Assignments and Preferences Act.

And in the matter of A.B. (*naming the debtor*) of the ——— of ———, in the County of ———, Merchant, Insolvent.

I, C.D., of the ———, of ———, in the County of ———, Manufacturer, make oath and say:—

1. I am the claimant herein (*or* the agent for the said C.D., and have a full knowledge of these matters herein deposed to).

2. The said A.B. and his estate is justly and truly indebted to me (*or* the said C.D.) in the sum of ——— dollars, as shown by the statement of account hereto annexed.

3. I hold (*or* the said C.D. holds) no security for the said indebtedness or any part thereof, except as follows: (*Set forth particulars of the security, if any.*)

1001. NOTICE OF CONTESTATION BY ASSIGNEE.

In the matter of the Assignments and Preferences Act.

And in the matter of the Estate of A.B. of the City of ——— in the County of ———, manufacturer, Insolvent.

To C.D. of, &c.

Take notice that E.F. the assignee of the estate and effects of the said A.B., insolvent, disputes your claim to rank upon the estate of the said A.B. for the sum of $——— or any part thereof.

And further take notice that your claim to rank on the said estate shall be forever barred unless within 30 days after the receipt by you of this notice, or within such further time as the Judge of the County Court of the County of ——— may on application allow, you shall bring an action against me to establish your said claim and serve a copy of the summons or writ of summons therein. Service of the summons or writ of summons may be made on G.H., solicitor, of the City of ——— in the County of ———, for me.

Dated at ——— the ——— day of ———, 19—.

Assignee.

1002. APPOINTMENT FOR EXAMINATION OF ASSIGNOR.

Section 37.

In the matter of the Assignments and Preferences Act.

And in the matter of an Assignment for the Benefit of Creditors made by A.B., of the ——— of ———, Merchant, Insolvent, to E.F., of the ——— of ———, Assignee.

Upon the application of E.F., the above named assignee, I, C.D., Deputy Clerk of the Crown of the High Court of Justice in and for the County of ——— (*or* Special Examiner, *or as the case may be*), hereby appoint ——— day the ——— day of ———,

19—, at the hour of ——— o'clock in the ——— noon, at my chambers, No. — ——— Street, in the City of ———, for the examination upon oath of the said A.B. (*or as the case may be*), touching the estate and effects of the said A.B. and as to the property and means he had when the earliest of the debts or liabilities of the said A.B. existing at the date of the said assignment, made by the said A.B. on the ——— day of ———, 19—, was incurred, and as to the property and means the said A.B. still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him.

Dated at ——— the ——— day of ———, 19—.

Deputy Clerk of the Crown
of the County of ———, (*or*
Special Examiner,
(*or as the case may be.*)

1003. NOTICE OF MOTION FOR ORDER

Authorizing Creditor to Proceed. Sec. 12.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Assignments and Preferences Act.

And in the matter of A.B. of ——— in the County of ———, merchant, Insolvent.

Take notice that a motion will be made on behalf of C.D. a creditor of the said A.B. before the presiding Judge in Chambers at Osgoode Hall in the City of Toronto on Monday the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the motion can be heard, for an order authorizing the said C.D. to take such proceedings in the name of E.F., assignee of the said A.B. under an assignment made in pursuance of the said Act and dated the ——— day of ———, 19—, but at the expense and risk of the said C.D. as the said C.D. may be advised, upon such terms and conditions as to indemnity to the said assignee as the Judge may prescribe; or for such further or other order as may be deemed right.

And take notice that upon and in support of the said motion will be read, &c.

Dated at ——— the ——— day of ———, 19—.

To E.F., Esq.

The above-named assignee.

Solicitor for the said C.D.

1004. NOTICE OF MOTION TO REMOVE ASSIGNEE

And Substitute Another or Appoint Additional Assignee. Sec. 11.

IN THE COUNTY COURT OF THE COUNTY OF ———.

In the Matter of The Assignments and Preferences Act.

And in the Matter of A.B. of the ——— of ——— in the County of ———, grocer, Insolvent.

Take notice that a motion will be made on behalf of C.D., a creditor of the said A.B., on behalf of himself and all other creditors of the said A.B., before the Judge of the County Court of the County of ——— at his Chambers in the City of ——— on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon, or so soon thereafter as the motion can be heard, for an order that E.F. the assignee named in the assignment made by the said A.B. dated the ——— day of ———, 19—, be removed and that G.H. of the ——— of ——— in the County of ———, accountant, be substituted as assignee of the estate of the said A.B., or that the said G.H. or some other suitable person be appointed an additional assignee of the said estate to act with the said E.F., or for such further or other order as may be just.

And take notice that in support of the said application will be read the affidavits of ——— filed and the exhibits therein referred to.

Dated at ——— the ——— day of ———, 19—.

To E.F., &c.

Solicitor for the said C.D.

CHAPTER XLII.

THE CREDITORS' RELIEF ACT.

9 Edw. VII. (1909), Ch. 48.

1005. SHERIFF'S ENTRY.

Section 6.

I have on this day in my hands for distribution under The Creditors' Relief Act among the creditors of C.D. the sum of $——— and the distribution will be made among the creditors of the said C.D. entitled to share therein, at the expiration of one month from this day.

Dated, &c.

Sheriff.

1006. AFFIDAVIT OF CLAIM.

The Creditors' Relief Act.

In the County Court of the County of ———.

A.B., Claimant,

vs.

C.D., Debtor.

I, A.B., of ——— in the County of ———, Merchant, (*or as the case may be*) make oath and say:

1. I am the above-named claimant (*or* the duly authorized agent of the claimant in this behalf, and have a personal knowledge of the matters herein deposed to).

2. The above-named debtor is justly and truly indebted to me (*or* to the above named claimant) in the sum of $———for (*here state shortly the nature and particulars of the claim*).

1007. NOTICE TO BE SERVED WITH CLAIM.

The Creditors' Relief Act.

In the County Court of the County of ———.

Between A.B., Claimant,

and

C.D., Debtor.

To the above (*or* within) named Debtor.

Take notice that the Claimant intends to file with the Clerk of the County Court of ——— (*or as the case may be*) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the Sheriff of the said County a writ of execution against your goods and chattels and lands and tenements (*or as the case may be*), and that the claimant intends to call on the Sheriff to levy the amount of the said debt from your property under the authority of The Creditors' Relief Act.

And further take notice that in case you desire to contest the said claim, or any part thereof, you must within ten days after the service of this notice upon you, file with the Clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim, otherwise such claim will be treated as admitted by you, or may be so treated as to the part contested.

You are hereby further notified that unless you endorse upon such affidavit filed by you a statement of some place in or within three miles of the County Town of the said County at which service may be made upon you, or the address of some solicitor in the Province of Ontario who may be served on your behalf, service may be made upon you of any notice, paper or document

requiring service by mailing the same enclosed in an envelope addressed to you at the said County Town.

Dated, &c.

Solicitor for A.B.

Note.—If further time is given by a Judge the notice should be varied accordingly.

1008. AFFIDAVIT OF SERVICE OF CLAIM.

The Creditors' Relief Act.

In the County Court of the County of ———.

A.B., Claimant,

vs.

C.D., Debtor.

I, G.H., of ———, in the County of ———, (*addition or occupation,*) make oath and say:—

1. That I did on the ——— day of ———, 19—, personally serve C.D., the above-named debtor, with an original affidavit identical with the annexed affidavit, and that there was at the time the affidavit was so served attached to (*or* endorsed upon) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (*or* endorsed upon) the said annexed affidavit.

1009. CERTIFICATE OF PROOF OF CLAIM.

The Creditors' Relief Act.

In the County Court of the County of ———.

A.B., Claimant,

vs.

C.D., Debtor.

I, ———, Clerk of the County Court of the County of ———, do hereby certify that the above-named claimant did on the ——— day of ———, 19—, file with me a claim against the above named debtor for the sum of $——— together with an affidavit of personal service thereof (*or as the case may require*) and of the notice required by The Creditors' Relief Act upon the said debtor, and that it thereby appears that such service was made upon the said debtor on the ——— day of ———, 19—.

And I further certify that the debtor has not contested the said claim (*or* has only contested the sum of $——— portion of the said claim, *or as the case may be*), and that the claimant is entitled to the sum of $——— against the said debtor and the further sum of $——— for costs.

Dated, &c.

Clerk.

1010. NOTICE OF CONTESTATION

Of Scheme of Distribution, Sec. 33.

The Creditors' Relief Act.

In the County Court of the County of ———.

A.B., Claimant,

and

C.D., Debtor.

To C.D., debtor, and F.G. and M.N., claimants.

Take notice that I contest the scheme of distribution prepared by the Sheriff of the County of ——— in respect of the claims of you the said F.G. and M.N. on the following ground (*state distinctly the ground*), and a copy of the Judge's appointment to adjudicate upon the matter is served herewith.

Dated, etc.

Contestant.

1011. ORDER ON CONTESTATION OF CLAIMS.

The Creditors' Relief Act.

In the County Court of the County of ———.

His Honour Judge ———, } ——— day the ——— day of

In Chambers. } ———, 19—.

Between A.B., Claimant,

and

C.D., Debtor.

Upon the application of the above named A.B., upon reading the affidavit of ——— filed and the notice of contestation served upon C.D. and upon F.G. and M.N. claimants of moneys levied by the sheriff of the County of ——— out of the estate of C.D., and what was alleged by the solicitors for all parties (*or as the case may be*):

1. It is ordered and adjudged that the said F.G. and M.N. have no right to rank upon the said moneys for any amount whatever (*or as the case may be*).

CHAPTER XLIII.

THE REPLEVIN ACT.

9 Edw. VII. (1909), Ch. 38.

1012. AFFIDAVIT FOR ORDER OF REPLEVIN.

On Præcipe (Rule 1068).

1. I am the above-named plaintiff and have a thorough knowledge of the matters herein deposed to.

2. On the ——— day of ———, 19—, (*being within two months next before the making of this affidavit*) the above-named defendant C.D. seized in my dwelling-house, situate at No. ——— Street, in the ——— of ———, and wrongfully took out of my possession, the following goods and chattels to wit:

3. I am the owner of the said goods and chattels and am lawfully entitled to possession thereof.

4. The value of the said goods and chattels to the best of my belief is $———.

5. I am advised by my solicitor and verily believe that I am entitled to an order of Replevin herein.

6. There is good reason to apprehend that unless the order is issued without waiting for a motion the delay would materially prejudice the just rights of me this deponent in respect to the said property.

1013. ORDER OF REPLEVIN.

(*Rule 1071.*)

1. It is ordered that the Sheriff of (*here insert the name of County, United Counties, District or City*), do without delay take the security required by Rule 1072 (*and where Rule 1074 applies add*: and Rule 1074) and cause to be replevied to the plaintiff his goods, chattels and personal property following, that is to say: (*here set out description of property as in the affidvait filed,*) which the said plaintiff alleges to be of the value of $——— and to have been taken and unjustly detained (*or* unjustly detained *as the case may be*) by the defendant C.D., in order that the said plaintiff may have his remedy in that behalf.

2. And it is further ordered that the said Sheriff do forthwith after the execution of this order make return to (*insert here the officer in whose office the appearance in the action is to be entered*) what he shall have done in the premises, and do also return this order.

1014. REPLEVIN BOND.

(*Rule 1072.*)

Know all men by these presents, that we, A.B. (*the plaintiff*) of ———, W.G. of ———, and J.S. of ———, are jointly and severally held and firmly bound to W.P., Esquire, Sheriff of the County of ———, in the sum of ——— dollars of lawful money of Canada, to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns, for which payment to be well and truly made we bind ourselves, and each and every of us in the whole, our, and each and every of our heirs, executors and administrators, firmly by these presents. Sealed with our seals.

Dated this ——— day of ———, one thousand nine hundred and ———.

The condition of this obligation is such, that if the above bounden A.B. do prosecute his suit with effect and without delay against C.D. for the taking and unjustly detaining (*or* unjustly detaining, *as the case may be*) of his cattle, goods and chattels, to wit: (*here set forth the property distrained, taken or detained*), and do make a return of the said property, if a return thereof shall be adjudged, and also do pay such damages as the defendant shall sustain by the issuing of the order of replevin if the said A.B. fails to recover judgment in his said suit, and further do observe, keep and perform all rules and orders made by the Court in the said suit (*where Rule 1074 applies add*: and do indemnify and save harmless the defendant from all loss and damage which he may sustain by reason of the seizure of the said cattle, goods and chattels (*as the case may be*), and of any deterioration of the same in the meantime in the event of their being returned, and all costs and expenses which the defendant may incur, including reasonable costs not taxable between party and party), then this obligation shall be void, or else remain in full force and virtue.

Signed, sealed and delivered
in the presence of

A.B. [SEAL.]
W.G. [SEAL.]
J.S. [SEAL.]

Note.—Affidavits of execution and of justification must be annexed to and filed with the bond.

1015. ASSIGNMENT OF REPLEVIN BOND.

Know all men by these presents, that I, W.P., Esquire, Sheriff of the County of ———, have at the request of the within named C.D., the defendant in this cause, assigned over this Replevin Bond unto the said C.D., pursuant to the Rules of the Supreme Court of Judicature in that behalf.

In witness whereof I have hereunto set my hand and seal of office this ——— day of ———, one thousand nine hundred and ———.

Signed, sealed and delivered
in the presence of

1016. ORDER OF WITHERNAM.

Issued on Præcipe. (*Rule 1078.*)

Upon the application of the plaintiff, and it appearing by the return of the Sheriff of the ——— of ——— to the order of replevin made herein on the ——— day of ———, 19— that the goods, chattels and personal property mentioned in the said order have been eloigned by the defendant C.D. out of the bailiwick of the Sheriff of ——— to places to him unknown, so that he could not replevy the same to the said plaintiff:

1. It is ordered that the said Sheriff do forthwith take in withernam the goods, chattels and personal property of the said defendant C.D. in his bailiwick, to the value of the goods, chattels and personal property by the said defendant C.D. before taken, and do forthwith deliver them to the said plaintiff to be kept by him until the said defendant C.D. delivers the goods, chattels and personal property last aforesaid to the said plaintiff.

2. And it is further ordered that if the said plaintiff shall give security to the said Sheriff as provided by law for the prosecution of the plaintiff's claims and for the return of the goods, chattels and property so to be taken in withernam as aforesaid, if the return thereof shall be adjudged, then the said Sheriff do take security with two sufficient sureties from the said defendant C.D. to answer to the said plaintiff for the taking and unjustly detaining of his goods, chattels and personal property aforesaid.

3. And it is further ordered that the said Sheriff do forthwith make return to the Central Office, Osgoode Hall, Toronto, (*or name the officer in whose office the proceedings were commenced,*) what he shall have done in the premises, and do also return this order.

1017. INTERLOCUTORY JUDGMENT IN REPLEVIN

In Default of Appearance or Defence.

No appearance having been entered to the writ of summons (*or,* no defence having been delivered by the defendant) herein, it is this day adjudged that the plaintiff recover against the defendant damages to be assessed.

1018. JUDGMENT FOR RETURN OF THE GOODS.

1. It is ordered and adjudged that the plaintiff's action be and the same is hereby dismissed.

2. And it is further ordered and adjudged that the plaintiff do return to the defendant the goods and chattels in the statement of claim mentioned and replevied in this action, and do pay to the defendant his costs of this action to be taxed.

1019. WRIT OF RETORNO HABENDO.

GEORGE THE FIFTH, &c.

To the Sheriff of ———, Greeting:

Whereas C.D. was summoned to be in our High Court of Justice to answer A.B. in an action for the taking and unjustly detaining of the goods and chattels of the said A.B. to wit (*describing them*). And (*recite the judgment under which the return is ordered*):

Therefore we command you that without delay you cause the said cattle (*or*, goods and chattels) to be returned to the said C.D., and in what manner you shall have executed this, our writ, make appear to the Justices of our said High Court of Justice at Toronto, immediately after the execution hereof, and have you there then this writ.

CHAPTER XLIV.

THE DEVOLUTION OF ESTATES ACT.

10 Edw. VII. (1910), Ch. 56.

1020. CAUTION.

The Devolution of Estates Act.

I, ———, executor of (*or* administrator, with the will annexed of, *or* administrator of) ———, who died on or about the ——— day of ———, 19—, certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (*or* administrator) to sell the real property of the said ——— or part thereof (*or the caution may specify any particular part or parcel*) and of this all persons concerned are hereby required to take notice.

Dated at ——— the ——— day of ———, 19—.

Signed in presence of ———.

1021. WITHDRAWAL OF CAUTION.

The Devolution of Estates Act.

I, ———, executor (*or* administrator) of ——— hereby withdraw the caution heretofore registered with respect to the real property of ——— (*or as the case may be*).

1022. AFFIDAVIT OF EXECUTION.

The Devolution of Estates Act.

I, ———, of, etc., make oath and say I am well acquainted with ——— named in the above certificate; that I was present and did see the said certificate signed by the said ———; that I am a

subscribing witness to the said certificate and I believe the said ——— is the person who registered the caution referred to in the said certificate.

1023. NOTICE OF MOTION FOR ORDER ALLOWING SALE OF LAND.

Section 11.

(*Formal Parts: See Note.*)

Take notice that an application will be made before the presiding Judge in Chambers at Osgoode Hall in the City of Toronto on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the application can be heard, on behalf of ——— the personal representative of A.B. deceased, for an order that the land above-mentioned may be sold free from the right of dower therein of the said C.D., or for such further or other order as may be just;

And take notice that in support of such application will be read the affidavit of ——— filed and the exhibits therein referred to.

Note.—Where the consent of the Official Guardian is asked on behalf of an infant to a sale of land under the Devolution of Estates Act, there should be produced to him:

(1) Copy of the Letters of Administration.

(2) An affidavit (made by the widow where there is one) giving the names of all the parties interested in the estate, with the full names and dates of birth of the infants, and showing the value of the land, the value of the personalty and giving what information she can as to creditors.

(3) Affidavits from two competent independent persons as to the value of the land.

(4) If the widow will take her dower instead of a distributive share, she should so state in her affidavit and give her age.

(5) If the widow will take a distributive share, then she must elect so as to comply with 10 Edward VII., Chap. 56, Sec. 9.

This election should be as in Form No. 1024 or, to save the expense of a separate document, the election may be included in the Deed to the purchaser.

(6) Affidavits should be styled as follows:—

The Devolution of Estates Act.

In the matter of the estate of ———, late of the ——— in the County of ———, deceased.

And in the matter of the Devolution of Estates Act.

(7) Evidence should be produced as to publication of advertisement for creditors.

(8) Costs of the sale must be taxed by the Senior Taxing Officer under rule 1258.

1024. DEED OF ELECTION.

The Devolution of Estates Act.

I, ——— of the ——— in the County of ———, widow of ———, late of the ——— in the County of ———, deceased, pursuant to subsection (1) of section 9 of ——— 10 Edward VII., Chap. 56, being "The Devolution of Estates Act," do hereby elect to take my interest under the said Act in the undisposed of real property of my said husband in lieu of all claim to dower, in respect of the real property of which my said husband was at any time seised or to which at the time of his death he was beneficially entitled, such undisposed of real property being all and singular, etc.

Dated this ——— day of ———, A.D. 19—.

Signed, sealed and delivered
in the presence of

1025. ANOTHER FORM.

Note.—Where the widow's election can be included in the Deed to the purchaser, the following only is necessary:

And I, the said ——— widow of the said ———, deceased, pursuant to subsection 1 of section 9 of 10 Edward VII., Chap. 56, being "The Devolution of Estates Act," do hereby elect to take my interest under the said Act in the undisposed of real property of my said husband in lieu of all claim to dower in respect of the real property of which my said husband was at any time seised or to which at the time of his death he was beneficially entitled.

1026. AFFIDAVIT OF WIDOW.

In the High Court of Justice.

The Devolution of Estates Act.

In the matter of the estate of A.B. of the ——— of ——— in the County of ——— and Province of Ontario (*occupation of deceased*).

And in the matter of The Devolution of Estates Act.

1. I am (the lawful widow) of the above named A.B., deceased, who died at the said ——— of ———, on (or about) the ——— day of ———, A.D. 19—, intestate (*or* having first made his last will and testament bearing date the ——— day of ———, A.D. 19—).

2. The said A.B. left him surviving, myself (*or* C.B.) his lawful widow and ——— children, his lawful and only heirs at law and next of kin.

3. ——— of the said children are now of the full age of twenty-one years or upwards. Their names and addresses are as follows:—

4. The other ——— children of the said A.B. are infants under the age of twenty-one years, and they are all residing with me (*or* with the said C.B. the widow of the said A.B., *or as the case may be*), at ———. Their names are as follows:—

F.B. who was born on the ——— day of ———, 19—.

J.B. who was born on the ——— day of ———, 19—.

&c., &c.

5. By deed dated the ——— day of ———, 19—, I elected to take the estate and interest to which I am entitled under the provisions of The Devolution of Estates Act in the lands of the said A.B. deceased, which remained undisposed of at the time of his death in lieu of all my claims to dower in respect of any lands of which he was at any time seised, or to which at the time of his death he was beneficially entitled.

1027. AFFIDAVIT BY LEGAL REPRESENTATIVE.

1. On the ——— day of ———, letters of administration to the estate and effects (*or* letters probate of the will) of the said A.B. were granted to me by the Surrogate Court of the County of ———.

2. A true copy of the said (letters) is now shewn to me and marked Exhibit "A" hereto.

3. The said A.B. at the time of his death was possessed of personal property, which for the purpose of the application for letters of administration (*or* probate of his will) was valued at the sum of $———.

(*Show what disposition, if any, has been made of it.*)

4. The said A.B. at the time of his death was the owner in fee simple of the following lands, which for the purpose of the said application for (letters of administration, *or as the case may be*) were valued at the sums respectively hereinafter mentioned, namely:—

(*Give here a list of the lands by a short description, adding in each case,* valued as aforesaid at the sum of $———.)

5. The said lands were at the time of the death of the said A.B. and still are (free from incumbrance, *or* subject to a mortgage, *giving the particulars thereof, as may be necessary*).

6. (*State the debts paid by the executor or administrator and unpaid, as may be convenient according to the circumstances. If the debts are inconsiderable some such statement as the following may be made:*—The said A.B. left no debts at the time of his death with the exception of a few small accounts for household expenses and expenses incurred during his last illness, all of which together with his funeral expenses have been paid by me, and a list thereof is hereto annexed and I hold vouchers for the payment of the same.

7. On or about the ——— day of ———, 19—, an offer in writing, now shewn to me and marked Exhibit "C" to this affidavit was received by me from ——— for the purchase of ———. I consider that in the interests of the said infants that the said offer should be accepted.

1028. AFFIDAVIT OF PUBLICATION

Of Notice to Creditor.

1. I have examined copies of the Ontario Gazette of the issues bearing date the ——— day of ———, and the ——— day of ———, 19—, (*as the case may be*).

2. A notice (a true copy of which taken from one of the said issues, is now shewn to me and marked as Exhibit "A" to this my affidavit), to the creditors of the said A.B. deceased, appeared in each of the said issues of the Ontario Gazette.

3, 4. I have examined copies of the (*name of local newspaper*) published at ———, and bearing date, &c., &c.

5. No claims against the estate of the said A.B. have been sent in to ——— pursuant to the said advertisement, and I verily believe that all the debts due by the said deceased at the time of his death have been paid (*or as the case may be*).

CHAPTER XLV.

THE DOWER ACT.

9 Edw. VII. (1909), Ch. 39.

1029. ORDER TO SELL LAND FREE FROM DOWER.

Section 14.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. / *Or* His Honour Judge ———. } ——— day the ——— day of ———, 19—.

In the matter of The Dower Act.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Applicant,
and
E.B., Respondent.

Upon the application of A.B., upon reading the affidavits of ——— filed and hearing what was alleged by the solicitors for both parties:

1. It is ordered that the said A.B. be at liberty to sell (*or* mortgage) the lands mentioned in the said affidavits, to wit: (*here describe the lands*), and it is further ordered that the concurrence of E.B. wife of the said A.B. in the conveyance thereof for the purpose of barring her dower in the said lands is hereby dispensed with, and a conveyance of the said lands executed by the said A.B. and expressed to be free from the dower of his said wife E.B. shall be sufficient to all intents and purposes to bar her right to dower therein as if she had duly executed a deed jointly with her husband for that purpose.

2. And it is further ordered that the value of the dower of the said E.B. in the said lands be and the same is hereby fixed at the sum of $———, and it is hereby ordered that the said amount remain a charge upon the said lands (*or be otherwise secured for her benefit as the case may be*).

1030. ORDER.

(*Another Form.*)

Upon the application of the said ——— the owner of lot number ——— in the ——— Concession of the Township of ——— in the County of ——— and province of Ontario, upon reading the affidavit of the applicant filed in support of this motion, and the exhibits therein referred to, and it appearing that the applicant is desirous of selling the said lands free from dower, and that the said ———, the wife of the applicant has been living apart from him for more than two years under such circumstances as disentitle her to alimony.

1. I, the Honourable ———, a Judge of the High Court of Justice for Ontario, hereby approve of this application and do hereby dispense with the concurrence of the said ——— for the purpose of barring her dower in the said lands and having ascertained that the value of such dower is $——— I do order that the said ——— be and he is hereby authorized to convey the said lands to — —, or to any other person or persons, and that a conveyance of the said lands by the said ——— expressed to be free from his wife's dower, shall, subject to the payment of the said sum of $——— to the said ——— should she survive her said husband be sufficient to bar her right thereto as if she had duly executed a deed jointly with her husband for that purpose.

2. And I do further order that upon the said ——— or anyone claiming through or under any deed from him executed pursuant to this order at any time hereafter, paying into Court to the credit of this matter, subject to the further order of this Court the said sum of $——— the said lands be released and discharged from the said charge and the said lands freed from the dower of the said ———.

1031. CERTIFICATE OF JUDGE AS TO LUNACY.

Section 15.

Province of Ontario.

County of ———.

I, the undersigned E.F., Judge of the County Court of the County of ———, do hereby certify that I have, on this ——— day of ———, 19—, personally examined A.B., an inmate of the Gaol of the said County of ———, and I do hereby further certify that from such personal examination and from the evidence adduced thereon, I am of opinion that the said A.B. is insane, and that the said A.B. is a proper person to be confined in an asylum for the insane.

Signed this ——— day of ———, 19—, at ——— in the County of ———.

1032. CERTIFICATE OF MEDICAL PRACTITIONER AS TO LUNACY.

Section 15.

I, the undersigned ———, legally qualified medical practitioner residing and practising at ——— in the County of ——— do hereby certify that I on the ——— day of ———, 19—, at ——— in the County of ——— separately from any other medical practitioner personally examined A.B., of the ——— of ——— in the County of ———, (*profession or occupation, if any,*) and after making due inquiry into all facts in connection with the case of the said A.B., necessary to be enquired into in order to enable me to form a satisfactory opinion, I certify that the said A.B. is insane and is a proper person to be confined in an asylum for the insane and that I have formed this opinion upon the following grounds, namely:

1. Facts indicating insanity observed by myself (*here state the facts*).

2. Other facts (*if any*) indicating insanity, communicated to me by others (*here state the information and from whom received*).

Signed this ——— day of ———, 19—, at ——— in the County of ———.

Signed in presence of

CHAPTER XLVI.

THE LANDLORD AND TENANT'S ACT.

R.S.O. 1897, Ch. 170 and 342, 10 Edw. VII. (1910), Ch. 75.

1033. NOTICE OF APPLICATION TO DECIDE DISPUTE.

10 Edw. VII. (1910), Ch. 75, Sec. 2.

In the County Court of the County of ———.

In the matter of A.B., Tenant, and C.D., Landlord.

Take notice that the above named tenant disputes the right of the above named landlord to distrain in respect of (the whole *or* part of the goods) *or* disputes the amount claimed by the said landlord for rent.

And further take notice that an application will be made on behalf of the above named Tenant before the Judge of the County Court of the County of ——— at his chambers at ——— in the City of ——— on ——— the ——— day of ———, 19—, at the hour of ten o'clock in the forenoon or so soon thereafter as the application can be heard to determine the matter so in dispute in a summary way or for such order in the premises as he may deem just.

And further take notice that in support of such application will be read the affidavit of ——— and the exhibits therein referred to.

Dated, &c.

To C.D.

1034. NOTICE TO TENANT TO REPAIR.

Sir,—You are hereby required (forthwith *or* within three calendar months now next), to put in good tenantable repair, order and condition the (messuage) and premises, with the appurtenances, situate at ———, in the ——— of ———, in the County of ———, which you now hold of (me, *or* A.B. of ———) and particularly that you do all and singular the amendments and reparations specified in the schedule hereunder written.

Dated this ——— day of ———, 19—.

To ———.

The schedule above referred to. (*Here specify the amendments and repairs required to be done.*)

1035. NOTICE TO TENANT TO REPAIR.

(*Another Form.*)

To Mr. C.D.:

Sir,—Having surveyed the (messuage) and premises, with the appurtenances, situate at ———, in the ——— of ———, in the

County of ———, now held by you under a lease, bearing date the ——— day of ———, 19—, and expressed to be made between A.B., of the one part, and you, the said C.D., of the other part, I find that the amendments and repairs specified in the schedule hereunder written are now necessary to be done pursuant to the covenants in that behalf contained in the said lease. And I do hereby give you notice to do all and singular such amendments and repairs (forthwith *or* within three calendar months next after the service of this notice).

Dated this ——— day of ———, 19—.

The schedule above referred to. (*Here specify the amendments and repairs required to be done.*)

1036. NOTICE SPECIFYING BREACH OF COVENANT.

To C.D.:

I hereby give you notice that you have broken the covenants and conditions in your lease, dated the ——— day of ———, 19— (for repairing, *or as the case may be*), the messuage and premises embraced in said lease, and I require you to comply with the said covenants and conditions, and pay me $——— as compensation for such breaches.

Dated this ——— day of ———, 19—.

1037. NOTICE TO DETERMINE A LEASE

For Twenty-one Years at the End of the First Seven or Fourteen Years.

To Mr. C.D.

Sir,—In pursuance of the proviso or power in this behalf contained in an indenture of lease dated the ——— day of ———, 19—, made or expressed to be made between (*as the case may be*), I, the undersigned (being the assignee of the immediate reversion of and in the tenements with the appurtenances demised by the said lease), do hereby give you notice that it is my intention to avoid the said lease, and to put an end to the term thereby granted at the end of the first (seven *or* fourteen, *or as the case may be*) years of the said term.

Dated the ——— day of ———, 19—.

1038. DEMAND OF POSSESSION.

At the End of a Term of Years, Otherwise Double Rent or Double Value.

To Mr. C.D. (Tenant).

Sir,—I hereby (as agent for and on behalf of your landlord, A.B.) demand and require you to quit and deliver up possession

of (*describe the premises shortly*) with the appurtenances, situate at ——— (*or* in the ——— of ———) in the county of ———, forthwith, (*or, if the term has not expired, say:* on the expiration of your term therein, which will expire on or about the ——— day of ——— next, *or* instant), and take notice that if you hold over the said premises after the service hereof (*or* the expiration of the term) you will be liable to pay double value (*or* double rent) for the said premises, pursuant to the statute in such case made and provided.

Dated at ——— the ——— day of ———, 19—.

1039. NOTICE TO PAY RENT TO MORTGAGEE.

Sir,—Take notice, that on, etc., the premises now in your occupation, situate at, etc., and held as tenant under (*mortgagor*) of, etc., were duly mortgaged to me for securing the repayment of ——— and interest at the rate of, etc., on a certain day now past, and that such principal sum and arrears of interest is still due and unpaid, and I hereby give you further notice not to pay any rent now due or hereafter to become due for the same premises to the said (*mortgagor*), or to any other person than to me, or whom I shall appoint to receive the same, and to pay the same to me or such person accordingly.

Dated, etc.

To Mr. J.P.

1040. WARRANT OF DISTRESS.

To A.B., my bailiff.

I hereby authorize and require you to distrain the goods and chattels in and upon the (house and) premises of C.D., situate and being (No. ——— street), in the ——— of ——— in the county of ———, for $———, being ———, quarter's rent, due to me for the same (on the ——— day of ——— last, *or as the case may be*), and to proceed thereon for the recovery of the said rent as the law directs. But you are hereby expressly prohibited from taking any property not legally liable to a distress for rent.

Dated the ——— day of ———, 19—.

1041. WARRANT OF DISTRESS.

Another Form.

To Mr. ———.

my bailiff in this behalf:

Distrain the goods and chattels of ——— liable to be distrained for rent in and upon the ——— now lately in the tenure or occupation of ——— situate on ——— for the sum of ——— dollars and ——— cents, being rent for the term of ——— due to me for the

same on the ——— day of ——— in the year of our Lord one thousand nine hundred and ———. And for the said purpose aforesaid distrain within the time, in the manner and with the forms prescribed by law, all such goods and chattels of the said ——— wheresoever they shall be found, as have been carried off the said premises, but are nevertheless liable by law to be seized for the rent aforesaid.

And proceed thereupon for the recovery of the said rent as the law directs.

And for your so doing this shall be your sufficient warrant and authority.

Witness my hand and seal this ——— day of ———, in the year of our Lord one thousand nine hundred and ———.

1042. WARRANT TO DISTRAIN GROWING CROPS.

To A.B., my bailiff.

I hereby authorize and require you to distrain the goods and chattels (and also the cattle and growing crops), in and upon the farm, lands and premises of C.D., situate and being at ——— in the ———, etc. (*as in preceding form to the end*).

1043. NOTICE OF DISTRESS.

To Mr. C.D., and all others whom it may concern.

Take notice, that I, ——— as bailiff of and for A.B. your landlord have this day distrained on the premises in your occupation or possession, named in the inventory (above written *or* hereunto annexed), the (cattle) goods and chattels mentioned in the said inventory for $———, being ——— quarter's rent due to (me, *or* the said A.B.), at ——— last (*or* on the day of ——— last), for the said premises; And unless you pay the said rent, with the charges of distraining for the same, within five days from the service hereof, the said (cattle) goods, chattels will be appraised and sold according to law. (*If cattle or goods removed, mention the place thus:* And take notice, that the said cattle have been removed to and are now in the common pound in and for the ——— of ———, in the County of ———.)

Dated the ——— day of ———, 19—.

1044. NOTICE OF DISTRESS OF GROWING CROPS.

To C.D., and all others whom it may concern.

Take notice, that I (———, as bailiff of and for A.B. your landlord,) have this day distrained on the (farm, lands and) premises in your occupation or possession mentioned in the inventory (above written *or* hereunto annexed), the (cattle, goods and chattels, and

also the) growing crops mentioned in the said inventory, for $———, being ——— quarter's rent due to (me *or* the said A.B.), at ——— last (*or* on the ——— day of ——— last) for the said (farm, lands and) premises: And unless you pay the said rent, with the charges of distraining the same (within five days from the date hereof, the said cattle, goods and chattels will be appraised and sold according to law, and) I shall (*or if signed by the bailiff say:* the said A.B. will) proceed to cut, gather, make, cure, carry and lay up the said crops, when ripe, in the barn or other proper place on the said premises, and in convenient time sell and dispose of the same in or towards satisfaction of the said rent, and the charges of such distress, appraisement and sale, according to law.

Dated the ——— day of ———, 19—.

1045. NOTICE OF DISTRESS FOR ARREARS OF RENT-CHARGE.

To Mr. A.B., and all whom this may concern.

Take notice that on the behalf of C.D. I have this day distrained, in and upon the farm and lands (called ———) in your possession, in the ——— of ———, in the county of ———, the goods and chattels in the inventory hereunder written mentioned, for ———, being (one) year's annuity (*or* rent-charge) of ——— per annum due to the said C.D. on ——— last, and charged on and issuing and payable out of certain farms, lands and premises called ———, in the said ——— of ——— in the county of ——— aforesaid, of which the farm and lands first above mentioned are part and parcel, and that unless the said arrears of the said annuity (*or* rent-charge) together with the expenses of this distress, are paid and satisfied, the goods and chattels will be disposed of according to law.

Dated, etc.

1046. INVENTORY OF GOODS DISTRAINED.

An inventory of the several goods and chattels distrained by me ———, the ——— day of ———, in the year 19—, in the house, out-houses, and lands of ———, situate ——— by authority and on behalf of ———, your landlord, for the sum of ———, being ——— rent due to the said ——— on the ——— day of ———, 19—.

In the dwelling-house:
On the premises:

1047. INVENTORY OF GOODS DISTRAINED.

Detailed Form.

An inventory of the goods and chattels (cattle and growing crops) distrained by ——— as bailiff of and for A.B., of ——— on the ——— day of ———, 19—, in and upon the (house or farm, lands) and premises of C.D., situate and being (No. ———, ——— street), in the ——— of ———, in the County of ——— for $———, being ——— quarter's rent due to the said A.B. (at ——— last, *or* on the ——— day of ——— last).

1. In front room on ground floor.—One dining table, one sideboard, twelve chairs (*describe each article in this room intended to be distrained*).

2. In back room on ground floor.—(*Here describe each article in this room intended to be distrained*).

3, 4, 5, etc. (*Here describe in like manner each article intended to be distrained in the* "front room on first floor"—"back room on first floor"—"front room on second floor"—"back room on second floor," etc.—"front attic"—"back attic"—"front kitchen"—"back kitchen"—"wash-house"—"scullery"—"wine cellar"—"coal cellar"—"yard"—"garden"—"coach-house"—"stables"—"barns," etc., etc.)

IN THE FIELDS.

1. In the fields called or known as (*name*); cows, calves, oxen, bulls, sheep, lambs, horses, mares, geldings, colts, fillies, pigs (*as the case may be*).

2. In the field called or known as (*name*); haystacks, stacks of (wheat), about ——— acres (more or less) of growing crops of (wheat or barley, oats, potatoes, peas, beans, *as the case may be*).

3. *Describe in like manner each close and the articles therein intended to be distrained. At the end of the list may (if wished) be added the following words or to the like effect, viz.:—*

"And all other goods, chattels and effects on the said premises," *or* " and any other goods that may be found in and about the said premises to pay the said rent and expenses of this distress." *(But it would be too indefinite and incorrect to say, "and all other goods, chattels and effects on the said premises that may be required in order to satisfy the above rent, together with all necessary expenses.")*

Dated this ——— day of ——— 19—.

1048. APPRAISER'S OATH AND MEMORANDUM.

You, and each of you, shall well and truly appraise the (cattle), goods and chattels mentioned in the inventory, according to the best of your judgment. So help you God.

1049. MEMORANDUM OF OATH ENDORSED.

Memorandum that on the ——— day of ———, 19—, L.M. of ———, and N.O. of ———, two sworn appraisers, were sworn upon the Holy Evangelists by me, P.Q. of ———, constable of the ———of———, in the County of ———, well and truly to appraise the (cattle), goods and chattels mentioned in (this *or* the within) inventory according to the best of their judgment.

As witness my hand,

P.Q., Constable.

Present at the swearing, the said L.M. and N.O. as above, and witness thereto.

1050. APPRAISEMENT.

We, the above-mentioned L.M. and N.O. being duly sworn upon the Holy Evangelists by P.Q., the constable above named, well and truly to appraise the (cattle), goods and chattels mentioned in (this *or* the within written) inventory, according to the best of our judgment, and having viewed the said (cattle) goods and chattels, do appraise and value the same at the sum of $———.

As witness our hands the ——— day of ———, 19—.

1051. NOTICE TO TENANT WHO CLAIMS EXEMPTIONS.

Take notice that I claim $——— for rent due to me in respect of the premises which you hold as my tenant, namely (*here briefly describe them*), and unless the said rent is paid I demand from you immediate possession of the said premises, and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me up possession of the said premises within three days after the service of this notice, I am by law entitled to seize and sell and I intend to seize and sell all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

This notice is given under the Act of the Legislature of Ontario respecting the Law of Landlord and Tenant.

Dated this ——— day of ———, 19—.

1052. ADVERTISEMENT OF BAILIFF'S SALE.

Notice is hereby given that the cattle, goods and chattels distrained for rent on the ——— day of ———, 19—, by me ———, as bailiff to ———, the landlord of the premises of ———, the tenant, will be sold by public auction on the ——— day of ———,

19—, at ——— o'clock, which cattle, goods and chattels are as follows, that is to say: (*list of chattels to be sold*).

Dated this —— – day of ———, 19—.

Bailiff.

1053. NOTICE OF SET-OFF BY TENANT.

Take notice, that I wish to set off against rent due by me to you, the debt which you owe to me on your (promissory note, wages, *or as the case may be, give particulars in detail*).

Dated this ——— day of ———, 19—.

1054. REQUEST NOT TO REMOVE GOODS.

To A.B. (*or* to ———, bailiff of A.B.).

Sir,—I hereby request you not to remove the goods and chattels which you have distrained and impounded for rent on the premises, situate at ———, in the County of ———, now in my occupation as (your tenant *or* tenant of the said A.B.), but to keep the said goods and chattels in the place where they are now impounded, until the ——— day of ——— next inclusive, for my accommodation, and to give me the opportunity of obtaining money to pay the said arrears of rent with expenses of the distress, all extra expenses occasioned by keeping possession as aforeaid to form part of the expenses of and incident to the distress.

Dated this ——— day of ———, 19—.

1055. REQUEST OF A TENANT TO HIS LANDLORD

To Withdraw a Distress for Rent, with Liberty to Make a Second Distress.

To A.B.

Sir,—I hereby request you, for my accommodation, to withdraw the distress for rent made by you on the (farm, land and) premises, situate at ———, in the County of ———, now in my occupation as your tenant: And in consideration of your so doing, I do hereby consent, promise and agree that it shall and may be lawful for you at any time (afterwards, *or* after the ——— day of ——— next) to make a second distress for the said rent, or for so much thereof as shall for the time being remain unpaid, and for the expenses of and incident to such second distress: And I will also pay you on demand all expenses incurred of and incident to the said first distress to the time of its being withdrawn for my accommodation as aforesaid.

Dated this ——— day of ———, 19—.

1056. UNDERTAKING TO DELIVER GOODS.

We, the undersigned, acknowledge to have received from ———, bailiff, the following property, seized under and by virtue of a distress for rent against the goods and chattels of ———, at the instance of ———, which said property we undertake to deliver to him, the said bailiff, whenever demanded, in as good condition as they now are.

Witness our hands the ——— day of ———, 19—.

Witness,

1057. REQUEST FOR APPRAISEMENT.

To A.B.:

I hereby require you to cause the (cattle), goods and chattels which you have distrained for rent to be appraised, as required by law.

Dated this ——— day of ———, 19—.

1058. REQUEST FOR REMOVAL OF DISTRESS.

To A.B.:

I hereby require you to remove the (cattle), goods and chattels which you have distrained for rent to a public auction room (*or* to the premises, No. ——— Street), for sale.

Dated this ——— day of ———, 19—.

1059. REQUEST OF EXTENSION OF TIME TO REPLEVY.

To A.B.:

I hereby request that the period of five days within which, but for this request, I am entitled to replevy the (cattle), goods and chattels which you have distrained for rent be extended to (*state number of days*) from the date of your distress, and I hereby agree to pay any additional cost occasioned by your so doing.

Dated this ——— day of ———, 19—.

1060. REQUEST TO SELL BEFORE THE EXTENDED TIME.

To A.B.:

I hereby request you to sell the (cattle), goods and chattels which you have distrained for rent at any time before the expiration of the extended time within which I should, but for this request, be entitled to replevy them.

Dated this ——— day of ———, 19—.

1061. NOTICE TO SHERIFF

Of Rent Due Landlord.

To the Sheriff of the County of ———, and his under-Sheriffs and Bailiffs, and all others whom it may concern:

Take notice, that the sum of $——— is now due and owing to (me *or* to L.K., of, etc.) from C.D., of ———, in the County of ———, for (one year's *or* one half year's *or* one quarter's) rent due on the ——— day of ——— last, of the premises in his occupation at ——— aforesaid, upon which premises, as I am informed, you have seized and taken in execution certain goods and chattels: And you are hereby required not to remove any of the said goods and chattels from off the said premises until the said arrears of rent are paid, pursuant to the statute in such made and provided.

Dated this ——— day of ———, 19—.

1062. NOTICE BY SHERIFF TO EXECUTION CREDITOR.

In the ———.

Between A.B., Plaintiff,
and
C.D., Defendant.

Take notice, that the sum of $——— is due and owing from the above-named defendant to his landlord, I.K., of ———, for (one year's *or* one half year's *or* one quarter's) rent, due on the ——— day of ——— last, for and in respect of the (house *or* farm, land and) premises situate at ———, in the County of ———, and in the occupation of the said defendant, and upon which certain goods and chattels have been seized by the sheriff of ———, under the writ of *fieri facias* issued in this action (and the said sheriff has had notice of such arrears of rent): Now I do hereby, as the agent of the said sheriff and on his behalf, give you notice that unless the above-named plaintiff do forthwith pay the arrears of rent due to the said landlord, either to him or to his bailiff, pursuant to the Statute in such case made and provided, the said sheriff will withdraw from possession of the said goods and chattels under the said writ.

Dated this ——— day of ———, 19—.

To ———.

1063. DECLARATION BY LODGER.

In the matter of a distress for rent by ——— against ———.

I, A.B., of ———, ———, occupying as lodgings, rooms in house No. ———, in ——— street, do solemnly declare:

That C.D., my landlord, has no right of property or beneficial

interest in the furniture, goods and chattels distrained (*or* threatened to be distrained), for rent alleged to be due to ——— (*superior landlord*), and of which an inventory is hereto annexed, but that such furniture, goods and chattels are my property (*or* in my lawful possession). I owe (*immediate landlord*) $———, on account of rent from ——— to ——— (*or*, no rent).

The inventory in this declaration is as follows:—

Inventory.

And I make this solemn declaration, &c.

CHAPTER XLVII.

THE OVERHOLDING TENANT'S ACT.

R.S.O. (1897), Ch. 171.

1064. DEMAND OF POSSESSION.

In the County Court of the County of ———.

In the matter of A.B., Landlord, against C.D., Tenant.

I, A.B., of the ——— of ———, in the County of ———, your landlord, do hereby demand and require you forthwith to go out of possession, and to deliver up to me possession of the lands demised to you, which land I now own, and which you have been permitted to occupy and hold the right of occupation (under and by virtue of a lease dated the ——— day of ———, 19—), (*or* under a verbal agreement, *as the case may be, and specifying the nature of the agreement*), and which lease and right of occupation have been determined and have expired by effluxion of time (*or* by breach of the covenants in the said lease, *as the case may be*), which said land may be described as (*describe the land*).

Dated at ——— this ——— day of ———, 19—.

1065. NOTICE TO TENANT TO DELIVER UP POSSESSION.

I, (owner *or* agent of ———, the owner), hereby give you notice that unless peaceable possession of ——— (*describe shortly the land or tenement demised to the tenant*), which was held of me (*or as the case may be*) under a tenancy from year to year (*or as the case may be*), which expired (*or* was determined) by notice to quit from the said ——— (*or otherwise as the case may be*) on the ——— day of ———, 19—, and which land (*or* tenement) is now held over and detained from the said ———, be given to ——— (the owner *or* agent) before the expiration of ——— clear days from the service of this notice, I, ———, shall on ——— next, the ——— day of ———, at ———, apply to the County

Judge of the County of ———, being the County (*or* District) in which the said land (*or* tenement) (*or any part thereof*) is situated, to appoint a time and place at which he will enquire and determine whether you were tenant, as herein alleged, and whether you wrongfully hold over contrary to the statute in that behalf, and, if he so finds, to grant an order for a writ to cause the said ——— to have possession of the said land (*or* tenement) and for payment of the costs of the proceedings.

Dated at ———, this ——— day of ———, 19—.

1066. AFFIDAVIT OF SERVICE.

In the County Court of the County of ———.

In the matter of A.B., Landlord, against C.D., Tenant.

I, E.F., of the ——— of ———, in the County of ——— (*occupation*), make oath and say as follows:—

1. That I did, on the ——— day of ———, 19—, personally serve the above-named tenant, C.D., with the demand of possession hereto annexed, marked A, by delivering to and leaving with the said C.D. on the said day (upon the lands described in the said demand, *or, as the case may be*), in the ——— of ———, in the County of ———, a true and correct duplicate original of said demand, and by producing and exhibiting to the said C.D. the said annexed demand.

2. At the same time, I also demanded of the said C.D. to deliver up to the said A.B. and to go out of possession of the said lands.

3. The said tenant, C.D., refused to go out of possession of the said lands, and gave no reasons for such refusal, (*or*, the reasons given for such refusal were as follows: *here state the reasons for refusal*).

1067. AFFIDAVIT FOR APPOINTMENT.

In the County Court of the County of ———.

In the matter of A.B., Landlord, and C.D., Tenant.

I, A.B., of the ——— of ———, in the County of ———, (*occupation*) make oath and say:—

1. I am the above-named landlord.

2. Now produced and shewn to me and marked exhibit "A" is an indenture of lease creating the demise of the lands therein described from me to the above-named tenant, C.D. (*or set forth the terms of the demise or right of occupation, if verbal, or as the case may be*).

3. Now produced and shewn to me and marked exhibit "B" is a true copy of a demand made upon the said tenant, C.D., for the delivering up of possession of the said lands.

(*Here state that the term has expired, or set forth the breaches of covenants which entitle the landlord to possession, as for example*:)

4. That the sum of $———, being part of the yearly rent reserved in the said lease, payable on the ——— day of ——— last past, was in arrear and unpaid for the space of ——— days and more after the said day by the said lease appointed for the payment thereof.

5. The said C.D. has not, in accordance with his covenant contained in the said lease, summer-fallowed, in a husbandlike and proper manner, at the proper season, at least ——— acres of the said land in the ——— year of the term demised by said lease, and has broken the said covenants in that behalf (*or, in place of foregoing statements in paragraphs 4 and 5, state clearly the particular breach of the covenant complained of, and on which the right of entry has accrued, or the grounds on which the determination or forfeiture of the lease and right of re-entry are based*).

6. By reason of the said several breaches of the covenants in the said lease, (*or*, of the expiration *or* determination of the term, as aforesaid, *or as the case may be*), I am entitled to re-enter upon the said demised premises and to remove the said tenant therefrom, and to re-possess the said lands, as in my first and former estate. (*Here add such facts and explanations in regard to the ground of the tenant's refusal as the truth of the case may require*).

1068. APPOINTMENT.

In the County Court of the County ———.

In the matter of A.B., Landlord, and C.D., Tenant.

Upon the application of A.B., the above-named landlord, and upon reading his affidavit and papers filed, and it appearing to me that the tenant wrongfully holds over, and that the landlord is entitled to the possession of the lands in question herein, and mentioned in the said affidavit and papers: I appoint ——— the ——— day of ———, A.D. 19—, at ——— o'clock in the ——— noon at ——— in ——— the ——— of ———, at which time and place I will enquire and determine whether the above-named tenant, C.D., was tenant of the said landlord for a period which has expired or been determined by notice to quit, or by breach of the covenants in the said lease, or by reason of any proviso in the said lease, or otherwise, and whether the tenant wrongfully holds possession of said lands, or any part thereof, against the right of the landlord, and whether the said tenant does wrongfully refuse to go out of possession having no right to continue in possession, or how otherwise.

Dated at ——— the ——— day of ———, A.D. 19—.

Judge.

1069. NOTICE TO TENANT OF APPOINTMENT.

In the County Court of the County of ———.

In the matter of A.B., Landlord, and C.D., Tenant.

Take notice that the above-named A.B. of ———, in the County of ———, claims possession from you, the above-named C.D., of Lot ——— in the ——— Concession of the Township of ——— in the County of ——— on the ground that the term of the tenancy has expired (*or, as the case may be*).

And further take notice that the Judge of the County Court of the County of ——— has appointed ——— day, the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon at his Chambers in the City of ——— for the purposes stated in the appointment, a copy of which is hereto annexed.

Dated at ——— the ——— day of ———, 19—.

Solicitor for the said A.B.

To the above-named C.D.

1070. AFFIDAVIT OF SERVICE.

Of Appointment and Papers Attached.

I, ———, of the ——— of ———, in the County of ——— (*occupation*), make oath and say:—

1. That I did on the ——— day of ———, A.D. 19—, personally serve the above-named tenant, C.D., with the appointment hereto annexed, marked C, together with the notice thereon endorsed, and the notice endorsed thereon as to the solicitor by whom the said appointment was issued, by delivering to and leaving with the said C.D. at the ——— of ———, in the County of ———, on the said day, a true copy of the said appointment and notices, and by producing and exhibiting to him at the same time said annexed appointment and notices, and at the time of such service there was attached to said copy of appointment and notices so served, and I delivered to and left with the said C.D. true copies of the affidavits hereto annexed, marked D and E, together with the copy of lease (*or* statement setting forth the terms of the demise or occupation, and the reason why a copy of the instrument cannot be attached, as the case may be), and demand of possession annexed to said affidavits, marked A and B.

1071. ORDER FOR WRIT OF POSSESSION.

In the County Court of the County of ———.

His Honour Judge ———, } ——— day the ——— day of ———,

In Chambers. } 19—.

In the matter of A.B., Landlord, and C.D., Tenant.

Upon the application of the said A.B., upon reading the appointment granted by me herein on the ——— day of ———, 19—, the

affidavits of ——— and the exhibits therein referred to, and upon hearing the said parties and their solicitors, and upon examining the witnesses called by them (*or* no one appearing for the said C.D., although duly notified as appears by the affidavit of ——— filed, *or as the case may be*), and it appearing to me after hearing the said parties and examining into the matter, that the case is clearly one coming under the true intent and meaning of section 3 of The Overholding Tenant's Act, and that the tenant wrongfully holds against the right of the landlord:—

1. It is ordered that a writ of possession under the said Act do issue out of the County Court of the County of ———, directed to the Sheriff of the County of ———, in the King's name, commanding him forthwith to place the said landlord in possession of the lands in question herein, to wit (*here describe the lands*).

2. And it is further ordered that the said tenant do pay to the said landlord his costs on the County Court scale of and incidental to this application and order forthwith after taxation thereof.

1072. ORDER DISMISSING APPLICATION.

In the County Court of the County of ———.

His Honour Judge ———, } ——— day the ——— day of ———,
In Chambers: } 19—.

In the matter of A.B., Landlord, against C.D., Tenant.

Upon the application of the said A.B., upon reading the appointment granted by me herein, dated the ——— day of ———, 19—, and the affidavits of ———, filed herein, and the exhibits therein referred to, upon hearing the said parties and examining into the matter:

I do order that the said application and the case against the said C.D. be, and the same are hereby dismissed, with costs against the said A.B., to be taxed by the Clerk of this Court on the scale of costs allowed in the Court in ordinary cases, so far as the proceedings allow it.

CHAPTER XLVIII.

THE MORTGAGES ACT.

10 Edw. VII. (1910), Ch. 51.

1073. NOTICE OF SALE

Under Power Contained in a Mortgage.

To ———.

Whereas by a mortgage bearing date the ——— day of ———, A.D. 19—, and registered in the registry office of the County of ——— on the ——— day of ———, 19—, as No. ——— for the

Township of ——— made by ———, the Mortgagor and ——— his wife to ———, the Mortgagee, the Mortgagor conveyed to the Mortgagee the following lands, tenements and hereditaments, namely: All that parcel of land and premises, situate in the township of ——— in the County of ——— being composed of ——— to secure the repayment of the sum of ——— dollars and interest thereon at ——— per cent. per annum. (*If the mortgage has been assigned add*: And whereas by an Indenture dated the ——— day of ———, 19—, and registered in the Registry office for the County of ——— on the ——— day of ———, 19—, the said ——— (*the mortgagee*) assigned and conveyed the said mortgage and the said moneys secured thereby and the said lands described therein to ——— (*the assignee*).

And whereas default has been made in payment of the ——— thereby secured by reason whereof the principal thereby secured has become due and payable, and by reason whereof the said ——— (*the mortgagee or assignee*) is also entitled to enter into possession of said lands and to exercise the power of sale contained in said mortgage.

And whereas there is due for principal the sum of ——— dollars, and for interest at said rate the sum of ——— dollars, and for costs the sum of ——— dollars.

And whereas you are or appear to be entitled to the Equity of Redemption in said lands or to have some interest therein.

Now therefore the said (*the Mortgagee or assignee*) hereby gives you notice that he demands payment of the said principal and interest and costs as aforesaid, making in all to this date the sum of ——— dollars, together with interest at said rate to the date of payment; and that unless payment of the said principal money, interest and costs be made within ——— months of your being served with a copy of this notice, either personally or by the same being left at your last or usual place of business in Ontario, the said ——— will without any further notice to you, or consent or concurrence on your part, enter into possession of the said lands and receive and take the rents and profits thereof, and whether in or out of possession make any lease or leases thereof, and sell and absolutely dispose of the whole or some part thereof either by Public Auction or Private Contract, and either for cash or on credit as the said Mortgagee (*or* assignee) may deem it expedient, and convey such portion or portions so sold for the purpose of realizing said moneys together with interest and costs.

Dated this ——— day of ———, 19—.

A.B. (the mortgagee *or* assignee),
by C.D. his solicitor.

Note.—A notice of exercising a power of sale must state the amounts claimed to be due for principal, interest and costs respectively. Mortgages Act, Sec. 27.

1074. NOTICE OF SALE.

Under Power to Sell Forthwith.

To (*names of parties entitled to notice*).

You and each and everyone of you are hereby required to take notice that default has been made in payment of the (interest, *or* principal) moneys secured by a certain indenture of mortgage dated the ——— day of ———, 19—, made by ———, the mortgagor, of the first part and ——— of ———, the mortgagee of the second part, upon the following lands, namely, all and singular that certain parcel of land situate, etc., and that there is now overdue the (principal money and) interest from the ——— day of ———, 19—.

The amount claimed to be due for principal interest and costs respectively are as follows: (*set same forth separately*).

And take notice that the said mortgagee (*or other person exercising the power of sale*) will proceed forthwith to exercise the powers of entering upon, leasing or selling the mortgaged lands described in the said mortgage.

Dated at ——— this ——— day of ———, 19—.

1075. NOTICE OF SALE.

Under The Mortgages Act, Secs. 18 and 26.

To (*names of parties entitled to notice*).

I hereby require you on or before the ——— day of ———, 19—, (*a day not less than two calendar months from the service of the notice and not less than six months after the default*) to pay off the principal money and interest secured by a certain mortgage dated the ——— day of ———, 19—, and expressed to be made between (*here state parties and describe mortgaged property*) which said mortgage was registered on the ——— day of ———, 19—, (*and if the mortgagee has been assigned, add,* and has since become the property of the undersigned).

And I hereby give you notice that the amount due on the said mortgage for principal, interest and costs respectively, is as follows: (*set the same forth*).

And unless the said principal money and interest and costs are paid on or before the said ——— day of ———, 19—, I shall sell the property comprised in the said mortgage under the authority of *The Mortgages Act.*

Dated at ——— the ——— day of ———, 19—.

1076. ENDORSEMENT OF SERVICE

Of Notice of Sale.

Served a true copy of this notice on ——— personally at ——— on the ——— day of ———, 19—.

(*Or*, served a true copy of this notice on ——— by leaving the same at his usual (*or*, last known) place of residence within this province, being ———, on the day of ———, 19—, (*or as the case may be*).

1077. DECLARATION OF SERVICE

Of Notice of Sale.

In the matter of the sale of the lands described in the notice of sale hereto annexed, under powers of sale contained in a mortgage made by ——— to ———.

County of ———,
To Wit:

I, ———, of the ——— of ——— in the County of ———, ———, do solemnly declare:

1. That I did on the ——— day of ———, 19—, (personally) serve ——— with a true copy of the notice of exercising power of sale hereto annexed by delivering such copy to and leaving the same with him (*or*, with a grown up person residing on the lands mentioned in the said notice, *or as the case may be*).

2. That to effect such service I necessarily travelled ——— miles.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under the oath, and by virtue of The Canada Evidence Act.

Declared, etc.

1078. ORDER

Granting Leave to Commence an Action After Notice of Sale Has Been Served. Mortgages Act, Sec. 28.

IN THE HIGH COURT OF JUSTICE.

The Hon. Mr. Justice ———, *or* His Honor Judge ———. In Chambers. } ——— the ——— day of ———, 19—.

In the matter of an intended action in the High Court of Justice (*or* in the County Court of the County of ———).

Between A.P., Plaintiff,
and
C.D., Defendant.

Upon the application of the above named A.B. for an order under Section 28 of the *Mortgages Act* for leave to commence an action (*or other proceeding*) to enforce a certain mortgage dated the ——— day of ———, 19—, made between ——— and ———, and upon reading the affidavit of ———.

It is ordered that the said A.B. be at liberty to commence an action (*or other proceeding*) in the ——— Court, for foreclosure (*or as the case may be*).

1079. ADVERTISEMENT OF SALE.

Under and by virtue of the powers contained in a certain mortgage, which will be produced at the time of sale, there will be offered for sale by public auction on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the (fore) noon, at ——— in the (town) of ———, by ———, auctioneer, the following property, namely (*give short description of property and describe buildings, improvements, etc.*)

Terms:— ——— per cent. of the purchase money to be paid down at the time of sale, balance to be paid (*state particulars of payment*).

For further particulars and conditions of sale apply to ———.

(*Name and address of solicitor.*)

Dated at ——— the ——— day of ———, 19—.

1080. DECLARATION OF PUBLICATION OF ADVERTISEMENT.

In the matter of the sale of the lands described in the advertisement hereto annexed, under powers of sale in a mortgage made by ——— to ———.

County of ———, } I, ———, of the ——— of ——— in the
To Wit: } County of ———, do solemnly declare:

That I have searched through the files of the newspaper called "———," published in the county of ———, and find that the advertisement, a true copy of which is hereto annexed and marked "A," as published in the issues of the said paper on the following dates, namely:—

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

Declared, etc.

1081. DECLARATION OF POSTING UP BILLS.

In the matter of the sale of the lands described in the notice of sale hereto annexed, under powers of sale in a mortgage made by ——— to ———.

County of ———, To Wit: } I, ———, of the ——— of ——— in the County of ———, (bill poster), do solemnly declare:

1. That I did post up conspicuously copies of the advertisement of sale hereto annexed, to the number, at the places and on the days set out in the schedule hereunder:

Number posted.	Date.	Places where posted.

2. That the said places were, in my opinion, the most advantageous for giving publicity to the sale in this matter.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of The Canada Evidence Act.

Declared, etc.

1082. DECLARATION OF AUCTIONEER.

In the matter of the sale of the property described in the advertisement of sale hereto annexed, under powers of sale in a mortgage made by ——— to ———.

County of ———, To Wit: } I, ———, of the ——— of ——— in the County of ———, auctioneer, do solemnly declare:

1. That at the time and place mentioned in the advertisement of sale hereto annexed marked "A," and under the conditions of sale hereto annexed marked "B," I offered for sale the lands described (as parcel number ———) in the said advertisement of sale.

2. At the said sale the said lands were sold for the sum of ——— dollars as appears from the agreement to purchase hereto annexed marked "C."

3. The said sum was the highest sum bid for the said lands and ——— (*name of purchaser*) whose name is subscribed to the said agreement to purchase, was declared by me to be the highest bidder for and became the purchaser of the said lands at the price of ——— dollars.

(*If no bid was made, insert instead of the two preceding paragraphs*: At the said sale no bid was made for the said lands and I was therefore unable to sell the same.)

(*If the bids were not sufficient say*: At the said sale the highest bid for the said lands was ——— dollars, which sum being less than the reserved bid fixed by the vendor in accordance with the said conditions of sale, I was unable to sell the said lands.)

4. The said sale was conducted by me in a fair, open and proper manner, and according to the best of my skill and judgment.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act.

Declared, etc.

1083. NOTICE TO TENANT

By Vendor, to Pay Rent to Purchaser.

I hereby give you notice that ——— of ——— has purchased the premises known as ———, which you hold under a lease dated the ——— day of ———, 19—, and I hereby request you to pay to the said ———, or to such person as he may appoint, all rent and arrears of rent now due and hereafter to become due from you in respect of the said premises.

Dated this ——— day of ———, 19—.

To ———, (*Tenant*). (*Vendor.*)

1084. NOTICE TO TENANT

By Purchaser to Pay Rent to Him.

I hereby give you notice that by an indenture dated the ——— day of ———, 19—, made between ———, of the first part and me, of the second part, and registered in the registry office for the county of ——— on the ——— day of ———, 19—, the premises now in your occupation were conveyed to me, and I hereby require you to pay me, or to such person as I may appoint, all rent now due or hereafter to become due in respect of the said premises until further notice from me, and to pay no rent in respect of the said premises to any other person, and in default I shall pursue such remedies as are allowed by law for the recovery thereof.

Dated at ——— this ——— day of ———, 19—.

To ———, (*Tenant*). (*Purchaser.*)

1085. NOTICE TO PURCHASER

To Complete Contract of Sale.

I hereby give you notice and require you to complete the contract of (*or* agreement for) sale, dated the ——— day of ———, 19—, and made between myself of the one part and yourself of the other part, by which you agreed to purchase the lands situate at ——— for the sum of ——— dollars.

And I further give you notice that if you fail to carry out the said contract within ——— days from this date, I shall seek such relief as I may be entitled to by law.

Dated at ——— this —— day of ———, 19—.

To ——— (*Purchaser*). (*Vendor.*)

1086. NOTICE TO VENDOR

To Complete Contract of Sale.

I hereby give you notice and require you to complete the contract of (*or* agreement for) sale, dated the ——— day of ———, 19—, made between you of the one part and me of the other part, by which you agreed to sell the lands situate at ——— for the sum of ——— dollars.

And I further give you notice that if you fail to carry out the said contract within ——— days from this date I shall seek such relief as I may be entitled to by law.

Dated at ——— this ——— day of ———, 19—.

To ——— (*Vendor*). (*Purchaser.*)

CHAPTER XLIX.

THE MECHANICS AND WAGE EARNERS LIEN ACT.

10 Edw. VII. (1910), Ch. 69.

1087. CLAIM FOR LIEN FOR WORK OR MATERIALS.

Section 17.

A.B. (*name of claimant*) of (*here state residence of claimant*) (*if claimant is a personal representative or assignee set out the facts*) under *The Mechanics' and Wage-Earners' Lien Act* claims a lien upon the estate of (*here state the name and residence of owner of the land upon which the lien is claimed*), in the undermentioned land in respect of the following work (*or* service *or* materials) that is to say (*here give a short description of the nature of the work done or to be done or materials furnished or to be furnished, and for which is claimed*) which work (*or* service) was

(*or* is to be) done (*or* materials were *or* are to be furnished) for (*here state the name and residence of the person upon whose request the work is done or to be done, or the materials furnished or to be furnished on or before the ——— day of ———, 19—.*)

The amount claimed as due (*or* to become due) is $———.

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Where credit has been given, insert: The work was done (*or* materials were furnished) on credit, and the period of credit agreed to expired (*or* will expire on the ——— day of ———, 19—.)

Dated at ——— this ——— day of ———, 19—.

(*Signature of Claimant.*)

1088 CLAIM FOR LIEN FOR WAGES.

Section 17.

A.B. (*name of claimant*) of (*here state residence of claimant*), (*if claimant is a personal representative or assignee set out the facts*) under The Mechanics and Wage Earners Lien Act claims a lien upon the estate of (*here state the name and residence of owner of the land upon which the lien is claimed*), in the undermentioned land in respect of work performed (*or* to be performed) thereon while in the employment of (*here state the name and residence of the person upon whose request the work was or is to be performed*), on or before the ——— day of ———, 19—.

The amount claimed as due (*or* to become due) is $———.

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at ——— this ——— day of ———, 19—.

(*Signature of Claimant.*)

1089. CLAIM FOR LIEN FOR WAGES BY SEVERAL CLAIMANTS.

Section 17.

The following persons claim a lien under The Mechanics and Wage Earners Lien Act upon the estate of (*here state the name and residence of the owner of land upon which the lien is claimed*) in the undermentioned land in respect of wages for labour performed (*or* to be performed) thereon while in the employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien*).

A.B. of (*Residence*) $——— for wages.
C.D. " " $——— for wages.
E.F. " " $——— for wages.

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at ——— this ——— day of ———, 19—.

(*Signatures of the several claimants.*)

1090. AFFIDAVIT VERIFYING CLAIM.

Section 17.

I, A.B., named in the above (*or* annexed) claim make oath that the said claim is true.

Or, we, A.B. and C.D. named in the above (*or* annexed) claim, make oath and each for himself makes oath that the said claim so far as relates to him is true.

(*Where affidavit is made by agent or assignee a clause must be added to the following effect:*—I have full knowledge of the facts set forth in the above (*or* annexed claim).

Sworn before me at ———, in the County of ———, this ——— day of ———, 19—.

Or, the said A.B. and C.D. were severally sworn before me at ——— in the County of ——— this ——— day of ———, 19.

Or, the said A.B. was sworn before me at ———, in the County of ——— this ——— day of ———, 19—.

1091. STATEMENT OF CLAIM.

Section 31, Subsection 2.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Mechanics and Wage Earners Lien Act.

Between The ——— Contracting Company (Limited), Plaintiffs, and The Corporation of the City of ———, Defendants.

STATEMENT OF CLAIM.

1. The plaintiffs are a Contracting Company having their Head Office at the City of ———, and the defendants are a Municipal Corporation.

2. The defendants are and were on the ——— day of ———, A.D. 19—, and for some time prior thereto, the owners in fee simple of the lands and premises in the City of ———, more particularly described in the claim of lien hereinafter set forth.

3. On or about the ——— day of ———, A.D. 19—, under a contract in writing entered into between the parties hereto, the plaintiffs were employed by the said defendants to construct and erect a grandstand, a police station and a fire hall for the defendants in the said City of ———, upon the lands hereinafter set out, and

there was no agreement between the said defendants and the plaintiffs that the plaintiffs should not be entitled to a lien upon the said lands and buildings to be erected thereon for the price of the work and materials to be done and furnished under the said contract.

4. In pursuance of the said contract the plaintiffs did a large amount of work upon and did furnish large quantities of materials which were used in and about the erection of the said grand stand, police station and fire hall upon the said lands and the value of the work done by the plaintiffs under the said contract on the ——— day of ———, 19—, amounted to the sum of $———.

5. In addition to the work done under the contract above referred to, the plaintiffs at the request of the defendants and under the direction and order of one ———, their agent and architect, did other work in connection with the erection and constructin of the said grand stand, police station and fire hall not provided for in the said contract, and not covered thereby, and the amount of such work done by the plaintiffs and material supplied by them in connection therewith on the ——— day of ———, A.D. 19—, was of the value of $———, and of such last mentioned work and materials the following are the particulars:

To work done outside contract work occasioned by alteration in location of buildings and elevation of same .....$
To work done in preparation of site for building.....
To extra cost of contract work occasioned by delay during preparation of site .....
To work, material and services occasioned by changes in and alteration to plans and specifications .....
To engineering services .....

6. On or about the ——— day of ———, A.D. 19—, the defendants improperly and illegally took possession of the premises above mentioned and described, and refused to permit the plaintiffs to proceed with their work upon the buildings under their said contract, and the plaintiffs have thereby been prevented from performing their said contract by the action of the defendants, and from earning and receiving the balance payable under the said contract, which balance on the said ——— day of ———, A.D. 19—, amounted to the sum of $———.

7. The total amount due to the plaintiffs by the defendants in respect of the matters hereinbefore alleged, amounts to the sum of $———, such amount being made up as follows:—

19—.

Sept. 1. To work, material and services under contract..$
Less paid on same .....

$

Total material and service as above .....
To balance of contract:
Total contract .....$
Part performed .....

Amount claimed .....$

8. By reason of being so employed as aforesaid, and doing the work and furnishing the materials hereinbefore mentioned, the plaintiffs became and are entitled to a lien on the estate and interest of the defendants in the lands referred to and hereinafter more particularly described for the sum of $——— under the provisions of The Mechanics and Wage Earners Lien Act.

9. On the ——— day of ———, A.D. 19—, the plaintiffs in pursuance of the said Act caused to be registered in the Registry Office for the said City of ———, a claim to and lien, which claim is in the words and figures following, that is to say:—

"The Mechanics and Wage Earners Lien Act.

"Claim of Lien for Registration.

"——— Contracting Company (Limited) under the Mechanics and Wage Earners Lien Act claims a lien upon the estate of the Corporation of the Municipality of the City of ——— in the undermentioned land in respect of the following work, service and materials, that is to say:—the erection of a structure to answer the purposes of a grandstand, fire station and sub-police station for the Corporation of the City of ——— in the City of ———, which work and service were done and materials supplied for the Corporation of the City of ———, in pursuance of an agreement dated the ——— day of ———, A.D. 19—, completion of which work was rendered impossible by the action of the said Corporation or its employees and as extras outside the contract performed at the request of said Corporation, or rendered necessary by the action of said Corporation or its employees, said work and services being done and materials supplied on or before the first day of September, 19—.

"The amount claimed as due is the sum of ——— dollars.

"The following is a description of the lands to be charged:—

"Dated at ——— this ——— day of ———, A.D. 19—, and which statement was duly verified by an affidavit of the Manager of the plaintiff company as required by the said Statute.

10. The work done and the materials furnished hereinbefore

set forth were so done and furnished between the ——— day of ———, A.D. 19—, and the ——— day of ———, A.D. 19—, and inclusive of the last mentioned date.

11. The lands hereinbefore referred to and more particularly described in the Claim of Lien hereinbefore set forth are the lands occupied by and usually enjoyed with the buildings hereinbefore mentioned and intended so to be.

The plaintiffs claim: —

1. That the defendants may be ordered to pay to the plaintiffs forthwith the sum of $———, together with interest thereon, and the costs of this action.

2. And that in default of such payment all the estate and interest of the defendants in the lands and buildings heretofore mentioned or a competent part thereof may be sold, and the proceeds thereof applied in and towards payment of the plaintiffs' debt and costs of this action, pursuant to the said The Mechanics and Wage Earners Lien Act;

3. And that for the purpose aforesaid all proper directions may be given and accounts taken;

4. Such further and other relief as the nature of the case may require.

The plaintiffs propose that this action be tried at the City of ——— in the County of ———.

Delivered this ——— day of ———, A.D. 19—, by ———, of number ——— Street ——— in the City of ———, in the County of ———, Solicitors for the plaintiffs.

1092. AFFIDAVIT VERIFYING CLAIM

On Commencing an Action.
Section 31.
(*Style of Court and Cause.*)

I, ———, make oath and say that I have read (*or* heard read) the foregoing statement of claim, and that the facts therein set forth are to the best of my knowledge and belief true, and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all the sums of money or goods or merchandise to which (*naming the debtor*) is entitled to credit as against me.

1093. CERTIFICATE FOR REGISTRATION.

IN THE HIGH COURT OF JUSTICE.
The Mechanics and Wage Earners Lien Act.
Between A.B., Plaintiff,
and
C.D., Defendant.

I hereby certify that the above named plaintiff has commenced an action in the above court to enforce a claim for a lien under the said Act against the following lands (*describe them*).

Dated at ——— the ——— day of ———, 19—.

Registrar or Clerk.

1094. ORDER FOR INSPECTION OF CONTRACT.

Section 30.

IN THE HIGH COURT OF JUSTICE, *or* IN THE COUNTY COURT OF THE COUNTY OF ———.

(*Name of Judge.*) (*Date.*)

In the matter of the Mechanics and Wage Earners Lien Act, and

In the matter of a claim for a lien under the said Act.

Between A.B., Plaintiff,

and

C.D., Defendant.

1. Upon the application of the above named A.B. for an order under Section 30 of the said Act, to inspect a certain agreement dated, &c., upon reading the notice of motion, the affidavit of ——— and the exhibits therein referred to and upon hearing what was alleged by the solicitors for the parties.

2. It is ordered that the said ——— do produce and allow the said A.B. to inspect the said contract or agreement at ——— on the ——— day of ———, 19—, or at such other time as may be agreed upon between the solicitors for the said parties.

3. It is further ordered that the costs of this application be ———.

1095. DISCHARGE OF LIEN.

Section 27.

The Mechanics and Wage Earners Lien Act.

To the Registrar of the County of ———.

I, A.B., of ——— hereby certify that I have received payment of the claim for a lien under the said Act from C.D. which said claim was dated the ——— day of ———, 19—, and registered in the Registry Office for the County of ——— on the ——— day of ———, 19—, as number ———, and the said lien is therefore discharged.

The said claim has not been assigned.

Dated at ——— the ——— day of ———, 19—.

Signed in presence of

(*Affidavit of execution.*)

1096. NOTICE OF TRIAL.

Section 37.

(*Style of Court and Cause.*)

Take notice that this action will be tried at the ——— in the ——— of ———, in the County (*or* District) of ——— on the ——— day of ——— by ——— and at such time and place the ——— will proceed to try the action and all questions which arise in or which are necessary to be tried completely to dispose of the action and to adjust the rights and liability of the persons appearing before him, or upon whom this notice of trial has been served, and at such trial he will take all accounts, make all enquiries, and give all directions and do all things necessary to try and otherwise finally dispose of this action, and of all matters, questions, and accounts arising therein and will give necessary relief to all parties.

And further take notice that if you do not appear at the trial and prove your claim, if any, (*or* your defence (if any) to the action) the proceedings will be held in your absence and you may be deprived of all benefit of the proceedings and your rights disposed of in your absence.

This is a Mechanics Lien action brought by the above named plaintiff against the above named defendants to enforce a Mechanics Lien against the following lands: (*set out description of lands*).

This notice is served by, etc.

1097. JUDGMENT.

Section 37, Subsection 3.

This action coming on for trial before ——— at ——— upon opening of the matter, and it appearing that the following persons have been duly served with notice of trial herein (*set out names of all persons served with notice of trial*) and all such persons (*or as the case may be*) appearing at the trial (*or* and the following persons not having appeared *set out names of non-appearing persons*) and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for C.D. and E.F. and the defendant (*or* and by A.B. appearing in person).

1. This Court doth declare that the plaintiff and the several persons mentioned in the first schedule hereto are respectively entitled to a lien under The Mechanics and Wage Earners Lien Act, upon the land described in the second schedule hereto, for the amounts set opposite their respective names in the 2nd, 3rd and 4th columns of the said first schedule and the persons primarily liable for the said claims respectively are set forth in the 5th column of the said schedule.

2. (And this Court doth further declare that the several persons mentioned in schedule 3 hereto are also entitled to some lien, charge or incumbrance upon the said land for the amounts set opposite their respective names in the 4th column of the said schedule 3 *according to the fact.*)

3. And this Court doth further order and adjudge that upon the defendant A.B. (*the owner*) paying into court to the credit of this action the sum of ——— (*gross amount of lien in schedules 1 and 3 for which owner is liable*) on or before the ——— day of ——— next, that the said liens in the said 1st schedule mentioned be and the same are hereby discharged (and the several persons in the said 3rd schedule are to release and discharge their said claims and assign and convey the said premises to the defendant (*owner*) and deliver up all documents on oath to the said defendant (*owner*) or to whom he may appoint) and the said money so paid into court is to be paid out in payment of the claims of the said lien holders (and incumbrancers).

4. In case the said defendant (*owner*) shall make default in payment of the said money into court, this Court doth order and adjudge that the said land be sold with the approbation of the Master of this court at ——— and that the purchase money be paid into court to the credit of this action and that all proper parties do join in the conveyances as the said Master shall direct.

5. And this Court doth order and adjudge that the said purchase money be applied in or towards payment of the several claims in the said 1st (and 3rd) schedules mentioned as the said Master shall direct, with subsequent interest and subsequent costs to be computed and taxed by the said Master.

6. And this Court doth further order and adjudge that in case the said purchase money shall be insufficient to pay in full the claims of the several persons mentioned in the said 1st schedule, the persons primarily liable for such claims as shewn in the said 1st schedule do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same shall have been ascertained by the said Master.

7. (And this Court doth declare that ——— have not proved any lien under The Mechanics and Wage Earners Lien Act, and that they are not entitled to any such lien and this Court doth order and adjudge that the claims of liens registered by them against the land mentioned in the said 2nd schedule be and the same are hereby discharged, *according to the fact*).

SCHEDULE 1.

Names of lien-holders entitled to mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.	Names of primary debtors.

(*Signature of officer.*)

SCHEDULE 2.

The lands in question in this matter are ——— (*set out by a description sufficient for registration purposes*).

(*Signature of officer.*)

SCHEDULE 3.

Names of persons entitled to incumbrances other than mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.

(*Signature of officer.*)

1098. NOTICE OF MOTION TO VACATE LIEN, &c.

(*Court and Style of Cause.*)

Take notice that a motion will be made before the Judge of the County Court of the County of ———, at his Chambers in the Court House in the City of ———, on ——— day, the ——— day of ———, 19—, at the hour of 10 o'clock in the forenoon, or as soon thereafter as the motion can be heard, for an order:

(1) To vacate the lien registered by the plaintiffs herein under the provisions of The Mechanics and Wage Earners Lien Act, against the lands of the defendants mentioned and described in the Statement of Claim filed and served herein in the Registry Office for the City of ———, on or about the ——— day of ———, A.D. 19—, and the certificate of the commencement of this action also registered in the said Registry Office under the provisions of the said Act, on or about the ——— day of ———, A.D. 19—.

(2) And to strike out the plaintiffs' Statement of Claim filed and served herein and to dismiss this action.

(3) *Or* to extend the time for the filing and delivery of the defendants' Statement of Defence herein.

And further take notice that upon this application will be read the Plaintiffs' Statement of Claim, the said lien and certificate, the affidavit of ——— filed herein, and the exhibits therein referred to.

Dated at ——— this ——— day of ———, A.D. 19—.

To ———,

Plaintiff's Solicitor. Defendant's Solicitor.

1099. ORDER VACATING LIEN.

1. Upon the application of the defendants made the ——— day of ———, A.D. 19—, upon reading the Statement of Claim of the plaintiffs herein, the affidavit of ———, filed and the exhibits therein referred to, and upon hearing what was alleged by Counsel for all parties and judgment upon the motion having been reserved until this day—

1. It is ordered that the Statement of Claim of the plaintiffs be and the same is hereby struck out and that the action as against the defendants be and the same is hereby dismissed with costs to be paid by the plaintiffs to the defendants forthwith after the taxation thereof.

3. It is further ordered that the claim of the plaintiffs to a lien upon the estate or interest of the defendants in the following lands, viz.:———in respect of which the sum of $———was claimed by the said plaintiffs as due and which said claim was registered in the Registry Office for the City of ——— on the ——— day of ———, A.D. 19—, at ——— o'clock in the forenoon as No. ——— be and the same is hereby vacated and discharged.

4. And it is further ordered that the registration of the certificate issued in the said action and registered by the said plaintiffs in the Registry Office for the City of ——— against the said lands, on the ——— day of ———, A.D. 19—, as number ——— be and the same is hereby vacated and discharged.

5. And it is further ordered that the plaintiffs do pay to the defendants the costs of and incidental to this motion forthwith after the taxation thereof.

1100. NOTICE OF APPEAL FROM ORDER.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Mechanics and Wage Earners Lien Act.

Between The ——— Contracting Company (Limited), Plaintiffs, and The Municipal Corporation of the City of ———, Defendants.

Take notice that a motion will be made on behalf of the plaintiffs at the next sittings of the Divisional Court at Osgoode Hall, in the City of Toronto, in the County of York, commencing on the ——— day of ———, A.D. 19—, at the hour of ten o'clock in the forenoon or so soon thereafter as the Court may be sitting, or the motion may be heard, by way of appeal from and setting aside the judgment pronounced herein by His Honour, ——— Judge of the County Court of the County of ———, on the ——— day of ———, A.D. 19—, vacating the lien registered by the plaintiffs under the Mechanics Lien Act, and setting aside the statement of claim, on amongst others the following grounds:—

1. The plaintiffs' action should not have been disposed of on a summary application without a trial. By section 31 of the Mechanics Lien Act the proceeding to enforce a lien is by an action according to the ordinary procedure of the Court except where an express variation is made by the Act. The plaintiffs duly filed and served the statement of claim and thereupon the action was subject to the ordinary procedure of the Court including the procedure as to dismissal of actions which is governed by Rule 261. This rule is only applied in a very clear case where the claim is frivolous or vexatious, or where a pleading is obviously bad but does not apply where an arguable question of law is involved. The plaintiffs claim as described by the statement of claim is shown to be a substantial one, and such that it could not properly be disposed of on a summary application under Rule 261.

2. Under Section 27 ss. 4, of the act, the Court or a Judge may vacate the registration of a lien. But this applies where no action is pending and except in a clear case the Court will not decide against the lien but leave the rights of the parties to be determined in an action. Even if it applies to a case where an action to enforce a lien is actually pending, the plaintiff submits the Court will act upon the same principles as have been applied under Rule 261.

3. And on other grounds appearing in the papers read on the application to the learned County Court Judge.

And take notice that upon this application will be read the plaintiffs' Statement of Claim, the affidavit of ——— filed, the reasons for judgment, and the other papers and proceedings filed and used upon the application to the said ——— Judge of the County of ———.

Dated this ——— day of ———, A.D. 19—.

To ———,

Solicitor for the Defendants.

Solicitors for the Plaintiffs.

1101. ORDER ALLOWING APPEAL.

IN THE HIGH COURT OF JUSTICE.

The Honourable the Chief Justice of the ———.
The Honourable Mr. Justice ———.
The Honourable Mr. Justice ———.

——— day, the ——— day of ———, A.D. 19—.

In the matter of the Mechanics and Wage Earners Lien Act.

Between The ——— Contraction Company (Limited), Plaintiffs, and The Municipal Corporation of the City of ———, Defendants.

Upon motion made unto this Court this day by Counsel on behalf of the plaintiffs in presence of Counsel for the defendants, by way of appeal from the judgment pronounced herein by His Honour ——— Judge of the County Court of the County of ——— on the day of ———, A.D. 19—, striking out the statement of claim of the plaintiffs in this action, and dismissing this action with costs, and discharging the lien of the plaintiffs upon the lands in question in this action, and upon hearing read the plaintiffs' statement of claim, the affidavit of ———, and the judgment aforesaid, and upon hearing what was alleged by Counsel aforesaid.

1. This Court doth order that the said judgment dated the ——— day of ———, A.D. 19—, be and the same is hereby vacated and set aside and that the plaintiffs be at liberty to proceed to the trial of this action;

2. And this Court doth order and adjudge that the defendants do pay to the plaintiffs their costs of this appeal, and of the application to His Honour ——— for the said judgment in any event of the action.

CHAPTER L.

THE QUIETING TITLES ACT.

10 Edw. VII. (1910), Ch. 59.

1102. PETITION.

IN THE HIGH COURT OF JUSTICE.

In the matter of the East half of Lot Number ——— in the ——— Concession of the Township of ——— in the County of ——— (*or as the case may be, describing the property briefly.*)

To the Honourable the Judges of the High Court of Justice for Ontario:

The petition of A.B. of the ——— of ——— in the County of ———, (*addition,*) showeth:

1. That your petitioner is absolute owner in fee simple in possession (*or as the case may be*) of the following property: (*describe it*).

2. That there is no charge or other incumbrance affecting your petitioner's title to the said land (except, &c., *or* that your petitioner's title is subject only to the charges or incumbrances in the schedule hereto mentioned,) and that the only persons having or claiming any charge, incumbrance, estate, right or interest in the said lands are set forth in the schedule hereto annexed, and that the charge, incumbrance, estate, right or interest belonging to or claimed by each is therein set forth.

Your petitioner therefore prays that his title to the said land may be investigated and declared under The Quieting Titles Act.

Dated this ——— day of ———, 19—.

C.D., solicitor for A.B.

1103. AFFIDAVIT IN SUPPORT OF PETITION.

In the matter of (*describe lands as in the title of the petition*).

I, ———, of, &c., the petitioner in this matter, make oath and say:—

1. To the best of my knowledge and belief, I am the absolute owner in fee simple in possession (*or as the case may be, following the words of the petition*) of the following lands (*describing them*), being the lands mentioned in the petition in this matter.

2. There is no charge or other incumbrance affecting my title to the said lands except (*stating any incumbrance which may exist*).

3. I am not aware of the existence of any claim adverse to or inconsistent with my own to any part of the land claimed by me, or to any interest therein, except (*specify the adverse claim, if any, giving the name and address of the claimant, if known, and stating how the claim arises*).

4. The deeds and evidences of title which I produce in support of my application herein, and of which a list is contained in the schedule of particulars produced by me in support thereof and now shown to me and marked with the letter A, are all the title deeds and evidences of title relating to the said land which are in my possession or power.

5. The title deeds and evidences of title relating to the said land which are set out or mentioned in the schedule hereto marked as Exhibit B, are in the possession or power of ———, of ——— (*name of the person*).

6. I do not know where, or in whose possession or power the title deeds and evidences of title set out as mentioned in the schedule hereto marked as Exhibit C, are. For the said last-mentioned title deeds and evidences of title I have caused the following searches to be made, namely: (*set out the facts, showing sufficient to let in secondary evidence*).

7. I am (*or* E.F., yeoman, is, *show under what claim or title*) in possession of the land; and to the best of my knowledge possession has always accompanied the title under which I claim since the year 19—, in which year one ——— through whom I claim, took possession, and prior thereto the land was in a state of nature. (*If possession has not always accompanied the title under which the petitioner claims, state correctly the facts as to the actual possession. Or if the applicant cannot give a complete account as to possession, or can give none at all, let him show some sufficient reason therefor.*)

8. To the best of my knowledge, information and belief this affidavit and the other papers produced herewith in support of my petition, and which are set forth in the said schedule of particulars, fully and fairly disclose all facts material to my title, and all contracts and dealings which affect the same or any part thereof, or give any right as against me.

9. There are no arrears of taxes due upon the said lands, nor have the said lands or any part thereof been sold for taxes during the past year, nor under execution during the past six months, and I do not know of any writs of execution in the hands of the sheriff against me or affecting the said lands.

10. To the best of my knowledge and belief, no person or body corporate has any right of way or of entry or of damming back water or of over-flowing or of placing or maintaining any erection or of preventing the placing or maintaining any erection on, in, to or over the said lands, other than myself, except (*giving the names and addresses, if possible, of any parties having any easement or right, and stating the nature thereof*). And the said land is not subject to any easement or dominant right whatever, except as aforesaid.

11. I am married and the name of my wife is ——— (*or* I am not married).

1104. SCHEDULE OF PARTICULARS TO FOREGOING AFFIDAVIT.

IN THE HIGH COURT OF JUSTICE.

In the matter of ———.

SCHEDULE OF PARTICULARS.

1. A. Affidavit of A.B.

2. B. Conveyance, C.D. to E.F., dated the ——— day of ———, 19—.

3. C. Letter, G.H. to L.M., dated the ——— day of ———, 19—.

4. D. Probate L.M.'s will.

Note.—Petitioner to sign Schedule, and Commissioner to identify it in the usual way as Exhibit A to the affidavit of Petitioner. Every thing produced must be enumerated in the Schedule, and shortly therein described; and on each deed, memorial, affidavit, &c., produced should be endorsed an alphabetical letter, and the same letter should appear in the Schedule opposite to each.

1105. AFFIDAVIT PROVING POSSESSION.

(*Formal Parts.*)

1. (*Show deponent's knowledge of land in question, and length of time he has known same.*)

2. (*Show who have been in possession of same, and for what periods respectively.*)

3. (*Show in what manner possession was held by the several persons named, e.g., as by living on, or by cultivating the land, and that the possession of each party named extended to the whole of the land in question; or if it did not, then particularizing the portions respectively held by them.*)

4. (*Show whether land is fenced in, and how long it has been so fenced; and if it be only partially fenced, show what part is fenced, and how possession has been held of unfenced portion.*)

1106. CERTIFICATE OF APPLICATION.

I certify that an application has been made by ——— to the High Court of Justice for Ontario, under The Quieting Titles Act, for a certificate of title to the following lands: (*stating them.*)

Dated, &c.

Clerk of Records and Writs.

1107. CERTIFICATE OF COUNSEL.

IN THE HIGH COURT OF JUSTICE.

In the matter of, &c.

I, ———, of ———, barrister, hereby certify that as counsel for ——— in this matter, I have investigated his title set forth in his petition, and I believe him to be the owner of the estate which he claims in the petition, subject only to the charges and encumbrances therein set forth.

I further certify that I have conferred with the applicant on the subject of the various matters set forth in his affidavit in support of his petition, and believe the same to be true.

Dated, &c.

1108. CERTIFICATE OF REGISTRAR.

I, ———, Registrar (*or* Deputy Registrar) of Deeds for the County of ———, certify that the foregoing are true extracts of all the instruments or proceedings registered in the Registry Office for ——— affecting the (*describe the lands in the same manner as they will require to be set forth in Certificate of Title.*)

(*Signature.*)

Note.—This certificate must be obtained after the registry of the certificate of the filing of the petition.

1109. CERTIFICATE OF SHERIFF AS TO EXECUTIONS.

I hereby certify that I have not at the date hereof in my office any writ of execution against the lands of A.B., C.D., E.F., or any or either of them, and that I have not had any such writ for thirty days preceding the date hereof.

I further certify that I have not sold Lot No.———in the——— Concession of the Township of ——— in the County of ——— under writ of execution for six months preceding the date hereof.

Dated the ——— day of ———, 19—.

Sheriff.

Note.—This certificate should bear date after the day of registering the certificate of the filing of the petition.

1110. CERTIFICATE BY TREASURER OF PAYMENT OF TAXES.

Treasurer's Office for the County of ———.

The ——— day of ———, 19—.

I certify that no charge for arrears of taxes appears at the date hereof in the books in this office against Lot No. ——— in the ——— Concession of the Township of ———.

And I certify that the return of lands in the Township of ——— in arrears for taxes for the year 19— has been made to this office, and I further certify that the said land has not nor has any part thereof been sold for taxes for eighteen months preceding the date hereof.

Treasurer.

Note.—If the roll has not been carried in for the year preceding the date of the certificate, a similar certificate for the past year must be signed by the Township Treasurer, if the roll has been returned to him; and if the roll has not been returned to him a receipt for the taxes for the past year by the collector of taxes will be sufficient, but the County Treasurer's certificate will be required to show that there are no previous arrears of taxes. The certificate should bear date after the day of registering the certificate of the filing of the petition.

1111. NOTICE TO PERSONS APPARENTLY INTERESTED.

IN THE HIGH COURT OF JUSTICE.

In the matter of (*the lands*).

Take notice that A.B. of the City of ———, Esquire, has made an application to the High Court of Justice for a certificate of his title to the above-mentioned property under The Quieting Titles Act, and take notice that if you claim any interest therein you must lodge your claim in writing, verified by affidavit, stating the particulars thereof, at my Chambers in ——— on or before the ——— day of ———, 19—, and serve a copy on the said A.B. of, &c., (*give address*), and, in default thereof, any claim, right or interest you may have therein at law or in equity will be forever barred and extinguished.

This notice is served on you because (*give briefly the reason why notice is served, e.g.*, from the evidence adduced before me it appears that you claim to be entitled to the said land as heir-at-law of C.D. of ———, deceased, whereas the said A.B. claims to be entitled to the said lands free from any claim whatever on your part.)

Dated this ——— day of ———, 19—.

Referee of Titles.

To (*name the parties to be served with their addresses*).

1112. ADVERTISEMENT FOR CLAIMANTS.

NOTICE.

IN THE HIGH COURT OF JUSTICE.

In the matter of the south-easterly half of lot number ——— in the ——— concession of the Township of ———, in the County of ———, and Province of Ontario, (except that part thereof heretofore conveyed to the Great Western Railway Company.)

Notice is hereby given that ——— of the Township of ———, Yeoman, has made an application to the High Court of Justice for Ontario for a certificate of title to the above mentioned property under The Quieting Titles Act, and has produced evidence whereby he appears to be the owner thereof in fee free from all incumbrances. Wherefore any other person having or pretending to have any title to or interest in the said land or any part thereof, is required on or before ———, the ——— day of ———, 19—, to file a statement of his claim, verified by affidavit, at my Chambers, in Osgoode Hall, in the City of Toronto, and to serve a copy on Messrs. ——— at their office in the City of ———, Ontario, as solicitors for the said ———, and in default, every such claim will be barred, and the title of the said ——— will become

absolute and indefeasible at Law and in Equity, subject only to the reservations mentioned in the 23rd section of the said Act.

Referee of Titles.

Dated this ——— day of ———, 19—.

1113. ADVERSE CLAIM.

In the matter of, &c., (*as in petition*).

G.H., of, &c., claims to be owner of the said land, &c., (*stating very briefly the nature of the claim and the grounds of it*).

Dated this ——— day of ———, 19—.

Solicitor for G.H.

1114. AFFIDAVIT VERIFYING ADVERSE CLAIM.

In the matter of, &c. (*as in petition*).

1. I, A.B., of ———, make oath and say, that, to the best of my knowledge and belief, I am the owner of the estate (*or* interest) which is claimed by me in my notice of claim in this matter now produced to me marked with the letter A, subject only to, &c., (*as the case may be*).

1115. AFFIDAVIT AS TO CROWN DEBTS.

IN THE HIGH COURT OF JUSTICE.

In the matter of, &c. (*as in petition*).

I, A.B., of ———, &c., make oath and say:—

1. That I have carefully searched the Register of Crown Debts, formerly in the Office of the Clerk of the Court of Queen's Bench at Toronto, and now in the Central Office of the High Court of Justice at Toronto, and I say that there has not been registered therein any deed, bond, contract or other instrument, whereby any debt, obligation or duty was incurred or created to Her Majesty on the part of X.Y., the petitioner in this matter, or on the part of C.D., E.F., &c. (*here name all persons who have had any estate in the lands*), save and except the several bonds or instruments named and set forth in the Schedule hereunder written.

THE SCHEDULE ABOVE REFERRED TO.

No. of instrument.	Date of instrument.	Instrument.	Penal sum.	Name of Obligor.	For what purpose executed.

1116. CONSENT BY ADVERSE CLAIMANT.

I, C.D., of ———, yeoman, do hereby consent that a Certificate of Title be granted to ——— of ———, (*occupation,*) declaring him to be the owner of the above mentioned lands, free from any right or claim on my part thereto (save and except only my rights as mortgagee under a certain Indenture of Mortgage dated the ——— day of ———, 19—, and made by the said ——— to me for securing $——— and interest, as therein mentioned.

Dated, &c.

Witness.

1117. CERTIFICATE OF TITLE.

IN THE HIGH COURT OF JUSTICE.

No. ———.

These are to certify under the authority of The Quieting Titles Act that A.B. of the ——— of ——— in the County of ——— in the Province of Ontario, (*addition*), is the legal and beneficial owner in fee simple in possession (*or as the case may be*) of all, &c. (*here describe the property*), subject to the reservations mentioned in Section 23 of the said Act and therein lettered respectively (*a*) (*b*) (*c*) and (*d*) (*or as the case may be*) and to (*specifying either by reference to a schedule or otherwise any of the charges or incumbrances, exceptions or qualifications to which the title of A.B. is subject*) but free from all other rights, interests, claims and demands whatever. (*Or* that (*stating the facts found and declared under section 31 of the Act, and stating on whose application the same are declared*).)

In witness whereof ——— President (*or* President of the ——— Division, *or* one of the Justices) of the said Court has hereunto set his hand, and the seal of the High Court has been hereunto affixed this ——— day of ———, 19—.

(*Signature of Registrar.*)

[SEAL.] (*Signature of President or Justice.*)

1118. ORDER TO AMEND CERTIFICATE OF TITLE.

Upon the application of ——— the petitioner herein and upon hearing the solicitor for the applicant and upon reading the papers filed with ——— in this matter and the certificate of title issued therein and it appearing that there is a clerical error in the said certificate.

1. It is ordered that the said certificate of title granted in this matter to the said ——— and numbered ——— be amended by striking out the word ——— preceding the word ——— on the ——— line thereof and by inserting the word ——— in lieu there-

of, and also that the duplicate of this certificate and the entry thereof in the books of the office of the ——— be also altered as to correspond with the said certificate when amended.

1119. **CONVEYANCE BY HIGH COURT.**

IN THE HIGH COURT OF JUSTICE.

No. ———.

The High Court of Justice for Ontario, under the authority of The Quieting Titles Act, doth hereby grant unto A.B., &c., (*here describe the premises sold*) to hold the same unto the said ———, his heirs and assigns forever (*or as the case may be*), subject to (*here specify as in the case of a certificate of title*).

In witness whereof ——— President (*or* President of the ——— Division *or* one of the Justices) of the said Court has hereunto set his hand, and the seal of the High Court has been hereto affixed, this ——— day of ——— in the year of Our Lord one thousand nine hundred and ———.

Registrar. [SEAL.]

CHAPTER LI.

THE SETTLED ESTATES ACT.

R.S.O. 1897, Ch. 71.

1120 **PETITION.**

(*Rule 973.*)

IN THE HIGH COURT OF JUSTICE.

In the matter of Estates settled by X.Y. (*or* X.Y. and others) by Will dated ——— (*or* Deed dated ———) consisting of certain Lands or Messuages or Tenements in the ——— of ——— in the County of ———.

And in the matter of The Settled Estates Act.

To the Honourable the Judges of the High Court of Justice:

The humble petition of A.B. of ——— in the County of ———, gentleman, and (*give names of other petitioners*) humbly showeth:

1. The above named X.Y., late of ——— in the County of ———, now deceased, was in his lifetime and at the time of his death well and equitably seized of an estate in fee simple in possession, to his own use, in all and singular (*describe lands.*)

2. The said X.Y. departed this life having duly made and published his last will and testament in writing in manner required

by law for the passing of real estate, bearing date the ——— day of ———, 19—, whereby he devised the said lands in the words and figures following: (*give words of devising clause of will*).

3. Your petitioner A.B. is the A.B. mentioned in the said devise, and (*give particulars of family, &c.*)

4. The said lands and premises were built upon many years ago, and the buildings have never been removed, and are now old-fashioned and not such as to be in keeping with the buildings in the neighborhood (*give particulars.*)

5. Your petitioners and the other persons interested have no means whatever of removing the said buildings or of erecting suitable buildings upon the said lands, so as to ensure the said lands being productive in case the same fall into the said petitioners upon the death of the said A.B., as well as to make the same remunerative during his lifetime.

6. The infant children of your petitioner A.B. reside with and are being supported and maintained by the said A.B. out of the rents and profits of the said lands and premises, and he has not any means of any consequence for the support and maintenance of himself, his wife and his said infant children, beyond the income from the said lands.

7. Your petitioners are desirous that the said property should be (*set out what is desired to be done*).

8. The only persons other than your petitioners who are interested in the said lands are the infant children of your petitioner A.B. above named, that is to say: (*name children*). And your petitioner submits that it is for the best interests of all parties interested that the said property should be leased (*or as the case may be.*)

9. Your petitioners aver that if the said property is not dealt with as proposed in this petition the same will become depreciated in value in respect of the buildings upon the same, and that the increased productive value thereof which can be obtained by leasing the same will be lost to the parties interested.

10. No application to Parliament (*or as the case may be*) has at any time been made or refused for the purpose of leasing the said settled estate, or dealing with the same in any way.

Your petitioners therefore pray, &c.

NOTICE TO BE ENDORSED ON PETITION.

This petition is filed by Messrs. ——— of Number ——— Street, ———, solicitors for the within named petitioner, (who resides (*or* carries on business) at ——— in the County of ———,) on whom all orders of the Court or of a Judge in Chambers and all notices relating to the subject of this petition may be served at their office aforesaid.

1121. NOTICE OF HEARING.

(*To be Endorsed on Petition.*) (*Rule 937.*)

Take notice that the within petition will be presented to the Court (*or* the presiding Judge in Chambers *or as may be*) at Osgoode Hall, in the City of Toronto (*or as may be*) on ——— the ——— day of ———, 19—, at ——— o'clock in the forenoon or so soon thereafter as counsel (*or* the matter) can be heard. If you do not attend on such presentation such order may be made in your absence upon the petitioner's own showing as may seem just, and you will not be entitled to receive notice of any future proceedings on the petition.

And take notice that in support of the petition will be read the affidavits of (*or* depositions of ——— taken *as may be*).

Dated this ——— day of ———, 19—.

To ———,

Solicitors for the respondent. Petitioner's Solicitor.

1122. ADVERTISEMENT UNDER SETTLED ESTATES ACT.

Notice of Hearing Petition to be Inserted in Newspapers if Directed Pursuant to Section 30 of the Act. (*Rule 985.*)

(*Title as in Petition.*)

By direction of Mr. Justice ———, notice is hereby given that a petition has been filed in the Central Office of the High Court of Justice at Toronto, praying for a sale (*or* for powers to grant a mortgage or leases) of the above-mentioned hereditaments (*or otherwise according to the circumstances*) and the said petition will be heard before the Court at Osgoode Hall, Toronto, on the ——— day of ——— next, at the hour of 10 o'clock in the forenoon, or so soon thereafter as the same can be heard, and any person, whether interested in the estate or not, may at that time and place be heard in opposition to or in support of such application. The petition may be inspected on application to Messrs. A. & B., of ———, the solicitors for the petitioners.

Dated at ——— the ——— day of ———, 19—.

Solicitors for Petitioners.

1123. NOTICE OF PETITION

Pursuant to Section 25. (*Rule 974.*)

(*Title same as for Petition.*)

Take notice that (*name petitioners and their address, as in the petition*) have filed in the Central Office at Osgoode Hall, Toronto, a petition in the above matters praying that (*as in petition, and describing the lands, messuages or tenements as in the petition*),

and it is intended to apply to the said Court for an order in accordance with such prayer, and you are (severally) hereby required to file a notification in the said Central Office at Osgoode Hall, Toronto, in writing, within 14 days after the service hereof, whether you assent to or dissent from such application, or submit your rights or interests so far as they may be affected by such application to be dealt with by the Court, and a copy of such notification is to be delivered to the petitioners' solicitors or left for them at the address specified at the foot hereof, and may be so delivered by transmitting the same to them by post at such address.

If no notification shall be so filed and delivered within the time above limited, you will be deemed to have submitted your rights and interests to be dealt with by the Court, and the Court may thereupon make such order as it shall see fit without further notice to you.

In the event of your dissenting from such application and desiring to be heard in opposition to the application, you are by your notification to require notice to be given to or left for you or your solicitor at a place (*specifying it*) within two miles of the said Central Office within ——— days of the day on which the petition is fixed for hearing.

You or your solicitor can, upon reasonable notice to the undernamed A.B., inspect and peruse a copy of the petition without payment of any fee, and you are entitled at your own expense to have a copy of such petition furnished to you.

Where a trustee is to be served under section 29 of the Act, add: This notice is given you in pursuance of the above Act, because you are seised or possessed of an estate in trust for (*name beneficiary*) whose consent or concurrence to or in the application is required by the Act.

Dated the ——— day of ———, 19—.

Petitioners' solicitors.
(*Address.*)

To (*name person or all persons to be served pursuant to above Section.*)

Note.—A copy of the above notice, with a notification at the foot thereof to be filled up by you, is sent herewith.

1124. NOTICE OF ASSENT OR DISSENT.

Pursuant to Section 25 of The Settled Estates Act. (*Rule 974.*)

(*Copy Notice as in Preceding Form.*)

In pursuance of a notice, of which the above is a copy, served on me on the ——— day of ———, 19—, I hereby notify that I (*here insert* assent to the application *or* dissent from the application *or* submit my rights and interests so far as they may be affected by the application to be dealt with by the Court.)

If you dissent and desire to be heard in opposition thereto, add. And I desire to be heard in opposition to the application and require notice to be given to ——— at (*naming place within two miles of the Central Office*) of the day fixed for the hearing of the petition.

Dated this ——— day of ———, 19—.

(*Signature and address of person giving notice.*)

To Messrs. (*names of solicitors of petitioner*).

1125. ORDER.

(*Title same as in Petition.*)

Upon the humble petition of C.D. (*name of petitioner or petitioners in full*), presented unto the Court this day of ———, praying (*as in the petition set out and describing the lands, messuages or tenements as in the petition*), and it appearing to the satisfaction of the Court that neither the applicant nor any other party entitled has previously applied to the Legislature of the Province of Ontario to effect the same or a similar object to that prayed for in the petition (*or if any such application has been made, show that the same was not rejected on its merits or reported against by the Judge to whom the bill may have been referred*), and it appearing to the satisfaction of the Court that the said petitioner was duly qualified to apply by way of petition for the relief asked for, and that the petitioner duly filed in the Central Office at Osgoode Hall, Toronto, his said petition, and thereafter properly gave notice of the filing of the same to (*here give the names in full of all persons other than the petitioner to whom notice of the application has been given*) and required them to notify in manner directed by The Settled Estates Act their consent or otherwise to the application, of whom (*here give the names in full of all persons served with notice of the application who concur or consent*) have concurred in and consented to the prayer of the said petition being granted, and of whom (*here give the names in full of all persons served with notice of the application who have neither filed nor served any notification of consent or dissent*) have neither consented to nor dissented from the prayer of the said petition being granted, and of whom (*here give the names in full of all persons served with notice of the application who have submitted their rights and interests to be dealt with by the Court*) have submitted their rights and interests to be dealt with by the Court, and of whom (*here give the names in full of all persons served with notice of the application who have appeared in opposition to the prayer of the said petition being granted*) have appeared in opposition to the prayer of the said petition being granted, and of whom (*here give the names in full of all persons*

served with notice of the application who have appeared in support of the prayer of the said petition being granted) have appeared in support of the prayer of the said petition being granted, and of whom (*here give the names of all trustees served with notice of the application, and the names of the beneficiaries on whose behalf the trustees are served*) are trustees representing (*names of beneficiaries*), which said trustees have been duly served with notice of this application and consent to (*or* dissent from) the granting of the prayer of the said petition (*as the case may be*), and of whom (*here give the names in full of all persons served with notice of the application who have filed and served any notice, setting forth the purport thereof, but who have not appeared before the Court*), and of whom (*here give the names in full of any infants or persons of unsound mind not so found for whom the official guardian* ad litem *or any other guardian* ad litem *appointed by the Court has been served*) being infants (*or* persons of unsound mind *as the case may be,*) the Court has approved of the concurrence and consent by the official guardian *ad litem* (*or* other guardian *ad litem* appointed by the Court *as the case may be*) on behalf of such infants (*or* persons of unsound mind *as the case may be*) to the prayer of the said petition being granted, and of whom (*here give the name in full of any lunatic and of his committee who has been served for the lunatic with the notice of this application*) being a lunatic represented by E.F. his committee, the Court has approved of the said committee concurring and consenting on behalf of the said lunatic to the prayer of the said petition being granted; and this Court having been pleased to dispense with service of notice of this application on (*here give the names in full of all persons on whom service of the notice of the application has been dispensed with by the Court*), and the Court having ordered that notice of this application should be inserted in the "———," a newspaper published at ——— in the County of ———, and it appearing that the said notice was duly published in manner directed, in pursuance of which advertisement (*here give the names of all persons who have appeared pursuant to the advertisement*) have appeared and have been heard before this Court (*or* no one having appeared pursuant to the said advertisement *as the case may be*), and this Court being satisfied from the affidavits of (*here give the affidavits filed*) filed in support of this petition and from the evidence of (*here give the names of all persons who have given* viva voce *evidence in support of the petition*) that it is proper and consistent, with a due regard for the interests of all parties entitled under the said will (*or other settlement, as the case may be,*) that the prayer of the said petition should be granted, and it appearing that all parties entitled to notice of the hearing of the petition have been duly notified of the hearing thereof, and

upon reading the said petition and hearing what was alleged by counsel for (*names of all parties appearing*):

1. This Court doth order that (*here set out the relief as asked for by the petition so far as the same has been granted by the Court.*)

(*If any persons' rights are reserved by the order, then show whether the order is made subject to any and what rights, estate or interest of any person whose concurrence or consent has been refused, or who shall not, or shall not be deemed to, have submitted his rights or interests to be dealt with by the Court, or whose rights or interests ought, in the opinion of the Court, to be excepted.*

If the purchase money is to be paid into Court or to trustees, state the provisions as to disposition of purchase money having reference to sections 33, 34, 35 and 36 of the Act.

If the Court authorizes a lease, see Rule 988 as to what the order shall contain.)

1126. NOTICE TO TENANT

To Pay Rent to Lessee under Settled Estates Act.

Take notice that you are required to give up quiet and peaceable possession of ——— according to the terms of your lease from the late ———, and further take notice that all rents accruing on and from the ——— day of ———, 19—, of the said premises are and will be payable to ——— by you.

Dated, &c.

CHAPTER LII.

PETITION OF RIGHT (ONTARIO).

Rules 922-936.

1127. PETITION OF RIGHT.

(*Rule 922.*)

IN THE HIGH COURT OF JUSTICE.

To the King's Most Excellent Majesty:

The humble petition of A.B. (*stating Christian name and surname*) of ———, (by his solicitor, E.F., of ———,) showeth that (*stating with convenient certainty the facts entitling the suppliant to relief.*)

Conclusion.

Your suppliant therefore humbly prays that, &c.

The suppliant proposes that the trial of this petition shall take place at the ——— of ——— in the County of ———.

Dated the ——— day of ———, 19—.

C.D., counsel for A.B.
or E.F., solicitor for A.B.

(*Stating the usual place of abode of the suppliant, and, if he has a solicitor, the place of business of such solicitor.*)

1128. INDORSEMENT ON PETITION OF RIGHT.

(*Rule 924.*)

The suppliant prays for a plea or answer on behalf of His Majesty within twenty-eight days after the date hereof, or otherwise that the petition may be taken as confessed.

1129. NOTICE TO APPEAR.

To Petition of Right. (*Rule 925.*)

To A.B.

You are hereby required to appear to the within petition in His Majesty's High Court of Justice within eight days, and to plead or answer thereto within fourteen days after the date of service hereof.

Take notice that if you fail to appear or plead or answer in due time the said petition may, as against you, be ordered to be taken as confessed.

Dated, &c.

1130. APPEARANCE.

IN THE HIGH COURT OF JUSTICE.

Petition of Right.

A.B., Suppliant,

v.

The King.

C.D. appears in person, *or* E.F., solicitor for C.D., appears for him.

(*If the appearance is in person, the address of the party appearing to be given.*)

Entered the ——— day of ———, 19—.

1131. CERTIFICATE OF JUDGMENT FOR PETITIONER

After Hearing Petition of Right. (*Rule 935.*)

To the Honourable the Treasurer of Ontario:

Petition of right of A.B. in His Majesty's High Court of Justice at Toronto.

I hereby certify that on the ——— day of ———, A.D. 19—, it was by the said Court adjudged (*or* ordered) that the above-named suppliant was entitled to, &c.

(*Judge's signature.*)

CHAPTER LIII.

THE CONTROVERTED ELECTIONS ACTS.

I. ONTARIO CONTROVERTED ELECTIONS ACTS.

8 Edw. VII. (1908), Ch. 4.

1132. **PETITION.**

Section 7.

IN THE COURT OF APPEAL FOR ONTARIO.

THE ONTARIO CONTROVERTED ELECTIONS ACT.

Election for the Electoral District of ——— holden on the ——— day of ———, 19—, and the ——— day of ———, 19—.

The petition of X.Y. of the ——— of ——— in the County of ———, (*addition,*) whose name is hereto subscribed.

1. Your petitioner is a person who had a right to vote and who voted at the election above mentioned.

2. Your petitioner states that the said election was holden on the ——— day of ———, 19—, and the ——— day of ———, 19—, when A.B. of the ——— of ——— in the County of ——— and C.D. of the ——— of ——— in the County of ——— were candidates, and the Returning Officer has returned the said A.B. as being duly elected.

3. Your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, guilty of bribery, treating, personation and undue influence, as defined by The Ontario Election Act and other Acts of the Legislative Assembly of Ontario, or recognized as such by the Common Law of Parliament, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

4. And your petitioner says that the said A.B. was, by himself, by his agents and by other persons on his behalf before, during, at and after the said election, guilty of giving and lending, and agreeing to give and lend, and offering and promising money and valuable considerations, and of promising and endeavouring to procure money and valuable considerations to and for voters at the said election, and to and for persons on behalf of voters at the said election, and to and for persons in order to induce voters to vote or to refrain from voting at the said election, and of corruptly doing such acts and every of them on account of voters having voted or refrained from voting at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative

Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

5. And your petitioner says that the said A.B. was, by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, guilty of giving and procuring, and agreeing to give and procure, and of offering and promising, and of promising to procure and to endeavour to procure offices, places and employment to and for voters at the said election, and to and for other persons in order to induce such voters to vote or refrain from voting at the said election, and of corruptly doing such acts and every of them on account of such voters having voted or refrained from voting at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

6. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, guilty of making gifts, loans, offers, promises, procurements and agreements as aforesaid, to and for divers persons, in order to induce the said persons to procure and to endeavour to procure the return of the said A.B. and of other persons to serve in the Legislative Assembly of the Province of Ontario, and to procure and endeavour to procure the votes of voters at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

7. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, upon or in consequence of such gifts, loans, offers, promises, procurements and agreements aforesaid, guilty of procuring and of engaging and promising and endeavouring to procure the return of the said A.B. and of other persons to serve in the Legislative Assembly aforesaid, and to procure and to endeavour to procure the votes of voters at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

8. And your petitioner says that the said A.B. was by himself, by his agents, and by other persons on his behalf, before, during, at and after the said election, guilty of advancing and of paying and causing to be paid money to and to the use of other persons,

with the intent that such money or part thereof should be expended in bribery at the said election, and of knowingly paying and causing to be paid money to persons in discharge or repayment of moneys wholly or in part expended in bribery at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

9. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, guilty of receiving and of agreeing to receive and of contracting for money, gifts, loans, valuable considerations, offices, places and employment, for himself or themselves and for other persons, for voting and for agreeing to vote, and for refraining and agreeing to refrain from voting at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

10. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, after the said election, guilty of receiving money and valuable considerations on account of divers persons having voted or refrained from voting and having induced other persons to vote or to refrain from voting at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

11. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during and at the said election, guilty of providing and furnishing and of paying and promising and engaging to pay for drink and other entertainment at the expense of the said A.B. and of such agents and other persons on his behalf, to divers meetings of electors assembled for the purpose of promoting the election of the said A.B., whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

12. And your petitioner says that the said A.B. was, by himself, by his agents and by or with other persons, and by other ways and means on his behalf, before, during and at the said election, guilty of corruptly giving and providing, and causing to be given and provided, and of being accessory to the giving and

providing, and of paying wholly or in part expenses incurred for meat, drink, refreshment and provision to and for persons in order to be elected and for being elected, and for the purpose of corruptly influencing such persons and other persons to give or to refrain from giving their votes at the said election, and of giving and causing to be given to voters on the nomination day and on the day of polling on account of such voters being about to vote or having voted, meat, drink, and refreshment, and money and tickets to enable such voters to procure refreshment, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

13. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, and at the said election, guilty of making bets and wagers, and of taking a share or interest in or in other manner becoming a party to bets and wagers, upon the result of the said election in the said Electoral District or in parts thereof, and upon events and contingencies relating to the election, and of providing money to be used by others in betting and wagering upon the results of the said election and other elections to the Legislative Assembly, and on events and contingencies relating to the said elections, and for the purpose of influencing the said election and other elections to the Legislative Assembly aforesaid, making bets and wagers on the result thereof in the said Electoral District or in parts thereof and on events and contingencies relating thereto, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

14. And your petitioner says that the said A.B. was, by himself, by his agents and by other persons on his behalf, before, during and after the said election, guilty of hiring and of promising to pay and of paying for horses, teams, carriages, cabs and other vehicles, to convey voters to and near and from the polls, and from the neighborhood thereof, at the said election, and of paying the travelling and other expenses of voters in going to or returning from the said election, and of providing and furnishing conveyance or transportation by railway free of charge or at diminished rates by means of passes and tickets and the like, and by other means, to voters to and from and on the way to and from the polls at the said election, and of hiring horses, cabs, carts, waggons, sleighs, carriages and other conveyances for the said A.B. and for agents of his at the said election, and of providing and furnishing and paying for the railway conveyance or transportation of voters

as aforesaid, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

15. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, guilty of intimidation and of making use of and of threatening to make use of force and violence and restraint, and of inflicting and threatening the infliction of injury, damage, harm and loss, and of otherwise practising intimidation upon and against divers persons, in order to induce or compel such persons to vote or refrain from voting, or on account of such persons having voted or refrained from voting at the said election, and as well by abduction, duress and divers fraudulent devices and contrivances of impeding, preventing and otherwise interfering with the free exercise of the franchise of divers persons, and thereby compelling, inducing or prevailing upon divers voters in some cases to give and in other cases to refrain from giving their votes at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

16. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during and at the said election, guilty of personation, and of aiding, abetting, counselling and procuring the commission of the offence of personation at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

17. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during and at the said election, guilty of voting and of inducing and procuring divers other persons to vote at the said election, knowing that he and they and such other persons had no right to vote at the said election, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

18. And your petitioner says that the said A.B. was, by himself, by his agents and by other persons on his behalf, during the said election and during the hours appointed for polling thereat, guilty of selling and of giving to divers persons spirituous and fermented

liquors and strong drink at divers hotels, taverns, shops and other places within the limits of polling sub-divisions in the said Electoral District, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

19. And your petitioner says that the said A.B. before, during and at the said election personally engaged divers persons at the said election as canvassers and agents in relation to the said election, knowing that such persons so engaged had within eight years previous to such engagement been found guilty of corrupt practices by a competent legal tribunal or by the report of the Judges upon an election petition, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

20. And your petitioner says that the said A.B. was by himself, by his agents and by other persons on his behalf, before, during, at and after the said election, guilty of corrupt practices, as defined and interpreted by The Ontario Election Act, The Ontario Controverted Elections Act and other Acts of the Legislative Assembly of the Province of Ontario, and as known and recognized as such by the Common Law of Parliament, and as the term "corrupt practices" is interpreted in the interpretation clause of The Ontario Controverted Elections Act, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void.

21. And your petitioner says that corrupt practices as defined or interpreted by The Ontario Election Act, The Ontario Controverted Elections Act and other Acts of the Legislative Assembly of the Province of Ontario, and as known and recognized as such by the Common Law of Parliament, and as the term "corrupt practices" is interpreted in the interpretation clause of The Ontario Controverted Elections Act, were committed before, during, at and after the said election by divers agents and other persons on behalf of the said A.B. by and with the actual knowledge and consent of the said A.B., whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly of the Province of Ontario for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void, and in consequence whereof the said A.B. was and is disqualified and was and is rendered incapable of being elected

to or of sitting in the Legislative Assembly aforesaid, and of being entered in any voters' list or poll book as a voter, and of voting at any election, and of holding any office at the nomination of the Crown or of the Lieutenant-Governor in Ontario, or any municipal office.

22. And your petitioner says that the said A.B. was before, during, at and after the said election, guilty of corrupt practices as defined and interpreted by The Ontario Election Act, The Ontario Controverted Elections Act and other Acts of the Legislative Assembly of the Province of Ontario, and as known and recognized as such by the Common Law of Parliament, and as the term "corrupt practices" is interpreted in the interpretation clause of The Ontario Controverted Elections Act, whereby the said A.B. was and is incapacitated from serving in the Legislative Assembly aforesaid for the said Electoral District of ———, and the said election and return of the said A.B. were and are wholly null and void, and in consequence whereof the said A.B. was and is disqualified from and was and is rendered incapable of being elected to or of sitting in the Legislative Assembly aforesaid, and of being entered in any voters' list or poll book as a voter, and of voting at any election, and of holding any office at the nomination of the Crown or of the Lieutenant-Governor in Ontario or any municipal office.

23. And your petitioner says that the apparent majority of votes in favor of the said A.B. as cast at the said election is not the real and true majority of votes cast thereat, but is a wholly colourable and fictitious majority.

24. And your petitioner says that at the said election many persons voted and cast their ballots for the said A.B. who were not by law qualified or who were by law disqualified and incompetent to vote at the said election, and whose votes thereat were therefore null and void and should be deducted from the poll of the said A.B. at the said election.

25. And your petitioner says that at the said election many persons voted and cast their ballots for the said A.B. whose names were not on the Voters' List as certified under The Ontario Voters' Lists Act or prepared under The Manhood Suffrage Registration Act, and whose votes at the said election were therefore null and void and should be deducted from the poll of the said A.B. at the said election.

26. And your petitioner says that at the said election many persons voted and cast their ballots for the said A.B. who before and during the said election had been and were employed at the election or in reference thereto, or for the purpose of forwarding the same by a candidate at the said election, or by other persons, as counsel, agent, solicitor or clerk, at divers polling places at the

said election, and in other capacities, and who had received, or expected to receive, either before, during or after the said election, from the said candidate or persons employing them, for acting in such capacity as aforesaid, sums of money, fees, offices, places of employment, or promises, pledges or securities therefor, and who were, therefore, not entitled to vote at the said election, and whose votes thereat were therefore null and void, and should be deducted from the poll of the said A.B. at the said election.

27. And your petitioner says that at the said election many persons who were legally entitled to vote thereat attended the polls and duly marked and tendered ballot papers at the said election in favor of the said C.D., and your petitioner claims that all such tendered ballot papers should now be opened and the votes given thereby added to the poll of the said C.D. and counted in his favor at the said election.

28. And your petitioner says that the ballots cast at the said election have been and were erroneously counted, and that in fact a larger number of the properly marked ballots cast at the said election were in favour of the said C.D. than in favour of the said A.B. and that the said C.D. ought to have been returned as being duly elected at the said election.

29. And your petitioner says that in counting the ballots cast at the said election many ballot papers were counted on the poll of the said A.B. which had not been supplied by the Deputy Returning Officers at the said election, or on which votes are given for more candidates than were to be elected, or on which in addition to the printed part and the initials or name of the Deputy Returning Officer on the back something was written or marked by which the voter could be identified, and your petitioner claims that all such ballot papers which are not properly marked in accordance with the Statute ought to be now rejected and deducted from the poll of the said A.B. at the said election.

30. And your petitioner says that in the counting of the votes cast at the said election many ballot papers which were properly and validly marked in favour of the said C.D. and which ought to have been counted as votes for him were on various pretexts rejected by the different Deputy Returning Officers at the said election, and have not been counted as votes in favour of the said C.D., and your petitioner claims that all such ballots ought now to be counted as votes in favour of the said C.D. and added to the poll of the said C.D. at the said election.

31. And your petitioner says that at the said election many persons voted in favour of the said A.B., by which persons divers corrupt practices had been committed, and such persons were thereby disqualified from voting at the said election, and the votes

of all such persons were null and void and should now be deducted from the poll of the said A.B. at the said election.

32. And your petitioner says that at the said election the said A.B. and divers agents of the said A.B. committed many corrupt practices with respect to voters, and your petitioner therefore claims that on a scrutiny there be struck off from the number of votes appearing to have been given at the said election for the said A.B. one vote for every person in regard to whom any such corrupt practice was committed.

33. And your petitioner says that at the said election the real and true majority of the ballot papers validly marked and of the votes legally cast was in favour of the said C.D. and not in favour of the said A.B., and your petitioner therefore prays that the ballots cast at the said election may be recounted, and that a scrutiny of the votes polled at the said election may be had, and that the said C.D. may be by the Court declared to have been duly elected at the said election and entitled to be returned as member of the Legislative Assembly aforesaid for the said Electoral District as elected at the said election.

Wherefore your petitioner prays:

(1) That it may be determined that the said A.B. was not duly elected or returned at the said election and that his said election was and is void, and that the said C.D. was duly elected and ought to have been returned as elected at the said election.

(2) That it may be declared and found that the said A.B. was and is guilty of the said several corrupt and illegal practices heretofore charged as having been committed, before, during, at and after the said election by himself, and by his agents and other persons on his behalf, by and with the actual knowledge and consent of the said A.B.

(3) That in consequence thereof the said A.B. may be adjudged disqualified and incapable of being elected to or of sitting in the Legislative Assembly of the Province of Ontario, and of being entered in any voters' list or poll book as a voter, and of voting at any election, and of holding any office at the nomination of the Crown or of the Lieutenant-Governor in Ontario or any municipal office.

And your petitioner will ever pray.

Dated at ——— this ——— day of ———, 19—.

Witness.

1133. AFFIDAVIT VERIFYING PETITION.

Section 16.

IN THE COURT OF APPEAL FOR ONTARIO.

The Ontario Controverted Elections Act.

Election for the Electoral District of ———, holden the ——— day of ———, 19—, and the ——— day of ———, 19—.

Province of Ontario.

To wit:

Between A.B., Petitioner,
and
C.D., Respondents.

I, A.B., of the ——— of ———, in the County of ——— (*addition or occupation*), make oath and say:

1. I am the petitioner above-named.

2. The election petition hereto annexed is presented in good faith, and I have reason to believe, and verily do believe, that the statements contained in the said petition are true in substance and in fact.

1134. NOTICE OF PRESENTATION.

Of Election Petition. Sec. 23.

IN THE COURT OF APPEAL FOR ONTARIO.

The Ontario Controverted Elections Act.

Election for the Electoral District of ——— holden on the ——— day of ———, 19—, and the ——— day of ———, 19—.

Province of Ontario.

To wit:

Between A.B., Petitioner,
and
C.D., Respondents.

Take notice that on the ——— day of ———, 19—, a petition was presented under The Ontario Controverted Elections Act by the delivery thereof to the Registrar of the Court of Appeal for Ontario, praying to have it declared that ——— the Respondent above named was not duly elected or returned at the election above described, and that the said election was void; and further to have it declared that the said ——— was personally guilty of corrupt practices at the said election as charged in the said petition, and that in consequence thereof the said ——— may be adjudged disqualified and incapable of being elected to or of sitting in the Legislative Assembly of the Province of Ontario, and otherwise as provided in The Ontario Election Act (and that ——— may be declared duly elected at the said election.)

And further take notice that in accordance with the provisions of the said Controverted Elections Act security for the payment of all costs, charges and expenses that may become payable by the petitioner in the matter of the said petition has been given as required by the said Act, by the deposit in the Canadian Bank of Commerce at Toronto of the sum of $1,000 to the credit of the said election petition with the privity of the Accountant of the Supreme Court of Judicature for Ontario.

Dated at ——— the ——— day of ———, 19—.

Agent and solicitor for said petitioner.

To J.K., Esq.,

The respondent above-named.

1135. CERTIFICATE UNDER CONTROVERTED ELECTIONS ACT

Of Receipt of Petition.

IN THE COURT OF APPEAL FOR ONTARIO.

The Ontario Controverted Elections Act.

Election for the Electoral District of ——— holden the ——— day of ———, 19—, and the ——— day of ———, 19—. Province of Ontario.

To wit:

Between A.B., Petitioner,
and
C.D., Respondents.

Received on the ——— day of ———, 19—, at the office of the Registrar of the Court of Appeal, a petition praying to have it declared that the Respondent above named was not duly elected or returned at the election holden as above described for the Electoral District of ———, and otherwise as in the said petition set out, such petition purporting to be signed by the said petitioner A.B. and being accompanied by the affidavit of the said petitioner annexed thereto.

Dated at Osgoode Hall in the City of Toronto this ——— day of ———, 19—.

Registrar.

1136. CERTIFICATE

Of Payment of Deposit.

Bank of ———.

Toronto, the ——— day of ———, 19—.

No. ———.

$1,000.00.

Re South Ontario Election Petition.
A. v. B.

This is to certify that E.F. on behalf of the petitioner C.A. has this day paid into this bank to the credit of this account in the Court of Appeal the sum of $1,000.

The Ontario Controverted Elections Act, Sec. 22.

Manager *or* Cashier.

1137. NOTICE OF ELECTION PETITION.

Given by Returning Officer. Sec. 17.

Notice is hereby given that ——— has presented a petition to the Court of Appeal for Ontario under The Ontario Controverted Elections Act against the return of ———, Esquire, as member of the Provincial Legislative Assembly for the Electoral District of ——— and (*where the seat is claimed*) claiming the seat for ———.

Dated at ——— the ——— day of ———, 19—.

Returning Officer.

1138. DISCLAIMER.

I, A.B., member-elect to the Legislative Assembly of the Province of Ontario for the Electoral Division of ———, do hereby disclaim all my right to sit or vote as such member, or in any manner to act as such member.

Dated, &c.

1139. APPOINTMENT OF SOLICITORS.

IN THE COURT OF APPEAL FOR ONTARIO.

The Ontario Controverted Elections Act.

Election for the Electoral District of ———, holden on the ——— day of ———, 19—, and the ——— day of ———, 19—.

Province of Ontario.

To wit:

Between A.B., Petitioner,
and
C.D., Respondents.

I, A.B., the petitioner above-named, hereby appoint Messrs. ———, of the City of ——— in the County of ———, Solicitors &c., whose offices are at Number ——— Street, in the said City of ———, my solicitors in the matter of the election petition presented by me herein, and I do hereby authorize the said ——— to act as my agents in the matter of the said election petition, and all notices and papers addressed to me in the matter of the said election petition may be left for me at the office of the said ——— at the above address in ———.

Dated this ——— day of ———, 19—.

Witness.

1140. PARTICULARS OF BRIBERY, &c.

Under Election Petition.

IN THE COURT OF APPEAL FOR ONTARIO.

The Ontario Controverted Elections Act.

Election for (*state the place*) holden on the ——— day of ———, 19—, and the ——— day of ———, 19—.

Between A.B., Petitioner,

and

C.D., Respondents.

PARTICULARS OF BRIBERY DELIVERED PURSUANT TO THE ORDER OF ——— DATED THE ——— DAY OF ———, 19—.

Name of Voter Bribed.	Persons guilty of bribery in respect of such voter within the meaning of The Ontario Election Act. N B.—The place of residence of the persons referred to is ——— unless otherwise mentioned.

Dated the ——— day of ———, 19—.

Yours, &c.,

To Mr. ———,
Agent (*or* solicitor) for the respondent C.D.

Agent (*or* solicitor) for the petitioner A.B.

1141. SUBPŒNA DUCES TECUM.

IN THE COURT OF APPEAL FOR ONTARIO.

Dominion of Canada,
Province of Ontario.
To Wit:

ONTARIO.

The Ontario Controverted Elections Act.

Election of a Member of the Legislative Assembly of the Province of Ontario for the Electoral District of the ——— of the County of ——— holden on the ——— day of ——— and the ——— day of ———, A.D. 19—.

Between ———, Petitioner,

and

———, Respondent.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To ——— , Greeting:

We command you and every of you to attend before our Justices assigned to try the above petition at the Court House, ——— in the ——— of ——— on ———, 19—, at the hour of ——— o'clock, in the forenoon, and so from day to day, until the above cause is tried, to give evidence on behalf of the ———, and also bring with you and produce at the time and place aforesaid

Witness, The Honourable ———, Chief Justice of our said Court, the ——— day of ———, 19—, in the ——— year of our Reign.

Issued from the Office of the Registrar of the Court of Appeal for Ontario.

1142. ORDER FOR EXAMINATION.

IN THE COURT OF APPEAL FOR ONTARIO.

The Controverted Elections Act of Ontario.

Election for the Electoral District ——— of the County of ——— holden on the ——— day of ——— and the ——— day of ———, 19—.

Between ———, Petitioner,

and

———, Respondent.

Upon the application of the said ——— and upon reading the affidavit of ——— this day filed, it is ordered that the ——— do attend before ——— at such time and place as he shall by writing hereon endorsed appoint, and submit to be examined *viva voce*, touching his knowledge of the matters raised by the petition herein, pursuant to the statute in that behalf. Costs to be costs in the cause.

Dated at Chambers this ——— day of ———, 19—.

1143. ORDER CHANGING PLACE OF TRIAL.

It is ordered pursuant to *The Ontario Controverted Elections Act* that the place of trial of this petition be changed from the City of London in the County of Middlesex to Osgoode Hall in the City of Toronto, the said trial to take place on the ——— day of ——— next at the hour of eleven o'clock in the forenoon.

And it is further ordered that the costs of and incidental to this application be costs in the cause.

1144. ORDER ADDING PARTY AS PETITIONER.

Upon the application of ——— on the ——— day of ——— in the County of ——— upon hearing read the proceedings herein and the affidavits of ——— filed and upon hearing what was

alleged by counsel for the applicant and for the respondent ——— no one appearing for the petitioner ——— although duly notified.

1. It is ordered that the said ——— be and he is hereby added as a petitioner in these proceedings and that hereafter proceedings herein be carried on in the name of ——— and of the said ——— as petitioner.

2. And it is further ordered that the costs of this application be costs in the proceedings.

1145. ORDER TO ISSUE SUBPŒNA.

For Examination of Respondent.

Upon the application of the petitioner and upon hearing read the affidavit of ——— this day filed and upon hearing what was alleged by counsel for the petitioner ———.

1. It is ordered that the petitioner be at liberty to issue a writ of subpœna, *duces tecum*, requiring the respondent herein to attend before (the Local Master and Deputy Registrar) or (a special Examiner of the High Court of Justice at the ——— of ———) or (before a County Court Judge of the County of ———) as the petitioner may elect at such time and place as he shall by writing appoint to be examined *viva voce* touching his knowledge of the matters raised by the petition herein pursuant to the Statute in that behalf.

2. And it is further ordered that the costs of and incidental to this motion be costs in the cause.

1146. ORDER FOR PRODUCTION AND INSPECTION OF BALLOTS.

Upon the application of the above-named petitioner upon reading the affidavit of ——— filed and upon hearing what was alleged by counsel for the petitioner.

1. It is ordered that both the petitioner and respondent, their solicitors and agents, may have production and inspection of all books, lists, commissions, ballots, certificates, statements, papers, documents and returns whatsoever relating to the election in question herein returned to or in the possession of the Clerk of the Crown in Chancery.

2. And it is further ordered for the purpose of such production and inspection that the said books, lists, commissions, ballots, certificates, statements, papers, documents and returns whatsoever relating to the said election returned to or in possession of the Clerk of the Crown in Chancery be forthwith delivered and transmitted by the said Clerk of the Crown in Chancery to ———, Esquire, (Registrar of the Court of Appeal for Ontario at Osgoode Hall in the City of Toronto.)

3. And it is further ordered that both the petitioners and respondent may have production and inspection before the said ——— of the packets made up in pursuance of section ——— of *The Election Act* as follows, namely:

(a) The used ballot papers which have not been objected to and which have been counted;

(b) The ballot papers which have been objected to and which have been counted;

(c) The rejected ballot papers;

(d) The spoiled ballot papers;

(e) The tendered ballot papers;

(f) The ballot papers given to voters who afterwards returned same declining to vote;

(g) The declaration of inability to read and physical incapacity taken under section 106 of the said Act with the attestation thereto and all certificates received by Deputy Returning Officers at the said election, including certificates issued to voters under section 28 of *The Manhood Suffrage Registration Act;*

(h) Any of the papers, declarations and statements in the possession, custody and control of the Clerk of the Crown in Chancery relating to the said election not hereinbefore particularly specified.

And the said packets shall be produced and opened by the said ——— for such inspection and such inspection shall take place in his office in his presence on such day or days as he shall from time to time direct, the party desiring inspection giving to the solicitor for the opposite party two days' notice of such inspection from time to time as the said ——— may direct.

4. And it is further ordered that the counterfoils of the ballot papers shall not be produced or opened to inspection for the said parties and the said ——— is to observe the provisions of section 141, subsec. 2, of *The Ontario Election Act.*

5. And it is further ordered that after ——— weeks from the date when such documents are delivered to the said ——— for production and inspection as aforesaid they shall be returned by him to the said Clerk of the Crown in Chancery.

6. And it is further ordered that the costs of this order and the production and inspection thereunder be costs in cause.

1147. ORDER FOR PAYMENT OUT OF DEPOSIT.

Upon the application of the above-named petitioners for an Order directing that the sum of one thousand dollars paid into Court as security herein under *The Ontario Controverted Elections Act* be paid out to the order of ——— solicitors for the petitioners herein, upon reading the consent of the petitioners, upon reading

the affidavit of ———, the consent of the solicitors for the respondent the undertaking of the said ——— solicitors for the petitioners herein filed, and upon hearing what was alleged by counsel for the petitioners.

1. It is ordered that the sum of one thousand dollars paid into Court herein on behalf of the above-named petitioners as security for costs under *The Ontario Controverted Elections Act*, together with interest thereon accrued be paid out of Court to the order of ———.

1148. ORDER FOR ISSUE OF SUBPŒNA TO WITNESSES IN QUEBEC.

Upon the application of the petitioners, upon hearing the solicitor for the applicant and upon reading the affidavit of ——— filed

1. It is ordered that a subpœna *ad testificandum et duces tecum* do issue out of and under the seal of this Court directed to ———of the ——— of ——— in the County of ——— (now in the City of Montreal) in the Province of Quebec, requiring him to be present before the Justices assigned to try this petition at the Court House at ——— in the County of ——— on the ——— day of ———, 19—, and so on from day to day until the above cause is tried.

1149. ORDER FOR DELIVERY OF BALLOTS

To Registrar of Election Court.

Upon the application of the petitioners and upon reading the affidavit of ——— filed herein ———

1. It is ordered that all books, lists, commissions, ballots, counterfoils, certificates, statements, papers, documents and returns whatsoever relating to the said election returned to or in possession of the Clerk of the Crown in Chancery be forthwith on request delivered by the said Clerk of the Crown in Chancery to ———, Esquire, the Registrar appointed to act as such at the election Court for the trial of this petition for the use of the Court at the said trial.

2. And it is further ordered that the costs of and incidental to this application and order be costs in the cause.

1150. AFFIDAVIT FOR ORDER FOR DELIVERY

Of Ballots, etc.

I, ——— of the ——— of ——— in the County of ———, Solicitor, make oath and say as follows:—

1. I am ——— and as such have a knowledge of the facts herein deposed to.

2. The petition herein is at issue.

3. Notice of trial has been served herein.

4. I am advised and believe that it is material for the purpose of the trial of this petition that all books, commissions, ballots, counterfoils, certificates, statements, papers, documents and returns whatsoever relating to the election herein returned to or in the possession of the Clerk of the Crown in Chancery should be produced for inspection at the trial of the said election petition, and I am further informed and believe that such production and inspection as aforesaid is necessary for the proper trial of this action.

5. This application is made in good faith and in the interests of justice.

1151. JUDGMENT DISMISSING PETITION.

The election petition above-mentioned having come on for trial at the ——— of ——— in the County of ——— on the ——— day of ——— before the Honourable ——— and Honourable ——— two of the Justices on the rota assigned to try the matter of this petition, after hearing the matter and the evidence adduced and upon hearing counsel for both parties.

1. It is this day ordered and adjudged that the petition should be and the same is hereby dismissed with costs to be paid by the petitioner to the respondent forthwith after taxation thereof.

1152. ORDER POSTPONING TRIAL.

1. It is ordered that the trial of this petition be and the same is hereby postponed from the ——— day of ——— until such other later date as may be fixed upon application to the Judges appointed to try the said petition or to one of them, by the Court.

1153. NOTICE TO PRODUCE DOCUMENTS.

IN THE HIGH COURT OF JUSTICE.

The Ontario Controverted Elections Act.

Election for (*state the place*) holden on the ——— day of ——— and the ——— day of ———, 19—.

Between A.B., Petitioner,
and
C.D., Respondent.

Take notice that the petitioner (*or* respondent) hereby requires you to produce and show to the Court on the trial of this petition all books, papers, letters, copies of letters, and all writings and other documents in your custody, possession or power, containing any entry, memorandum or minute relating to the matters in ques-

tion in the said petition, and particularly the documents in the schedule hereunder written.

Dated this ——— day of ———, 19—.

To G.H., Esq.,
Agent (*or* solicitor) for the respondent (*or* petitioner).

Yours, &c.,
Agent (*or* solicitor) for the petitioner (*or* respondent).

And to the above-named respondent (*or* petitioner).

SCHEDULE ABOVE REFERRED TO.

Description of document.	Date.

1154. NOTICE OF TRIAL.

The Ontario Controverted Elections Act.

Election Petition for the Electoral District of (*state the place.*)

Take notice that the above petition will be tried at ——— on the ——— day of ———, A.D. 19—, and on such other subsequent days as may be needful.

Dated the——— day of ———, A.D. 19—.

By order.

Registrar of the Court of Appeal.

1155. ORDER FOR WITNESSES TO ATTEND.

On Trial of Election Petition.

(Court and Style of Matter.)

To X.Y. (*describe the person*): You are hereby required to attend before the above Court at (*place*) on the ——— day of ———, 19—, at the hour of ——— (or forthwith *as the case may be*), to be examined as a witness in the matter of the said petition, and to attend the said Court until your examination shall have been completed.

As witness my hand the ——— day of ———, 19—.

Judge of the said Court.

1156. NOTICE OF APPLICATION

For Leave to Withdraw Petition. Sec. 71.

The Ontario Controverted Elections Act.

Election Petition for the Electoral District of (*state the place*) in which A.B. is Petitioner and C.D. Respondent.

Notice is hereby given that the above Petitioner has on the ——— day of ———, 19—, lodged at the office of the Registrar of the Court of Appeal notice of an application to withdraw the peti-

tion, on the following ground (*set it out*): And take notice that any person who might have been a Petitioner in respect of the said election may, within ten days after the publication of this notice, give notice to the Registrar of the Court of Appeal, in writing, of his intention on the hearing to apply for leave to be substituted as a Petitioner.

Dated, &c.

Returning Officer.

1157. APPLICATION

For Leave to Withdraw Election Petition.

The Ontario Controverted Elections Act.

The Electoral District of (*state the place*).

Petition of (*state petitioner*) against (*state respondent*) presented the ——— day of ———, 19—.

The petitioner proposes to withdraw his petition upon the following ground (*here state the ground*), and prays that a day may be appointed for hearing his application.

Dated this ——— day of ———, A.D. 19—.

(*Signature of applicant.*)

II. Dominion Controverted Elections Act.

R.S.C. (1906), Ch. 7.

1158. PETITION.

In the High Court of Justice (*or as the case may be*).

The Dominion Controverted Elections Act.

Election of a member for the House of Commons of Canada for the Electoral District of the ——— Riding of the County of ———, holden on the ——— day of ——— and ——— day of ———, A.D. 19—.

Dominion of Canada,
Province of Ontario.
To wit:

The petition of ——— of the ——— in the County of ——— whose name is subscribed, sheweth as follows:—

1. Your petitioner ——— is a person who was duly qualified and had a right to vote at the above mentioned election.

2. Your petitioner states that the election was holden on the ——— day of ——— and the ——— day of ———, A.D. 19—, when ——— were the candidates, and the Returning Officer has returned the said ——— hereinafter referred to as the respondent as being duly elected.

3. And your petitioner says that the said ——— respondent was by himself, by his agents, and by other persons on his behalf,

before, during, at and after the said election, guilty of bribery, treating, personation and undue influence as defined by "The Dominion Election Act," "The Dominion Controverted Elections Act," and other Acts of the Parliament of Canada, or recognized as such by the common law of Parliament.

4. And your petitioner, &c. (*here state further facts and grounds on which petitioner relies*).

Wherefore your petitioner prays that it may be determined that the said A.B. was not duly elected or returned, and that the election was void (*or* that the said E.F. was duly elected and ought to have been returned, *or, as the case may be*).

1159. AFFIDAVIT ON PRODUCTION OF BOOKS AND PAPERS.

(*Court and Style of Cause.*)

Election for ——— holden on the ——— day of ———, A.D. 19—.

I, ———, of ———, make oath and say:—

1. That I have in my possession or power the documents relating to the matters in question set forth in the first and second parts of the first schedule hereto annexed.

2. I object to produce the said documents set forth in the second part of the said first schedule.

3. (*State upon what grounds objection is made, and verify the facts as far as may be*).

4. I have had, but have not now, in my possession or power the documents relating to the matters in question set forth in the second schedule hereto annexed.

5. The last mentioned documents were last in my possession or power (*state when*).

6. (*State what has become of the last mentioned documents, to whom they have been given, and in whose possession they now are*).

7. According to the best of my knowledge, remembrance, information and belief, I have not now, and never had in my own possession, custody or power, or in the possession, custody or power of my agents or attorneys, agent or attorney, or in the possession, custody or power of any other person on my behalf any deed, account, book of accounts, minutes, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document or other document whatever, relating to the matters in question, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second schedule hereto annexed.

(*Annex the schedules mentioning the documents in question.*)

CHAPTER LIV.

THE WINDING-UP ACT.

R.S.C. (1906), Chapter 144.

I. Petition and Preliminary Proceedings.

1160. DEMAND FOR PAYMENT.

(*Section 4.*)

To ——— Company, Limited.

I hereby demand payment forthwith of the sum of $——— owing by you to me for ———, etc.

Dated at ——— this ——— day of ———, 19—.

1161. PETITION FOR WINDING-UP ORDER.

(*Section 13.*)

In the High Court of Justice.

In the matter of the Winding-up Act being chapter 144 of the Revised Statutes of Canada and the amending Acts, and

In the matter of the ——— Company, Limited.

To the Honourable the Judges of the High Court of Justice.

The humble Petition of ———, sheweth.

1. That the ——— Company, Limited, of ——— was incorporated by Letters Patent under the (*Ontario Companies*) Act on or about the ——— day of ———, 19—.

2. The Head Office of the said Company is in ——— in the Province of Ontario.

Or 2. The Head Office of the said Company is in the (City of New York in the State of New York, one of the United States of America) and the said Company has no head office in Canada: the chief place (*or* one of the chief places) of business in Canada of the said Company is at ——— in the Province of Ontario.

3. The objects for which the said Company was incorporated among others are the following, that is to say: (*set out objects briefly.*)

4. The nominal capital stock of the Company is ——— divided into ——— shares of ——— dollars each, of which ——— shares are said to be subscribed and ——— shares paid up.

5. The directors of the said Company are ——— and the following is a list of the shareholders of the Company.

6. It is claimed that all of the said shares are fully paid up except in the case of ——— of whose shares ——— are said to be fully paid up, and ——— of whose shares ——— are said to be fully paid up.

7. Your Petitioners are not aware of the facts relating to the subscription or payment of the said stock and they desire that the same should be investigated.

8. Immediately after the incorporation of the said Company the same was organized and proceeded to carry on business and carried on business until on or about the ——— day of ———, 19— (*or*, is still carrying on business).

9. Your Petitioner is a creditor of the said Company to the amount of $——— and in respect of the said amount the said Company is indebted to the said Petitioner and all the said amount is past due and owing to the said Petitioner. The said amount is for goods sold and delivered to the said Company by your Petitioner and upon Bills of Exchange of which your Petitioner is the holder (*or, as the case may be*). The following are the particulars:

10. The Company is unable to pay its debts as they become due. On the ——— day of ———, 19—, your Petitioner served upon the Company in the manner in which process may legally be served on it in the Province of Ontario, a demand in writing, a copy of which is marked Exhibit "B" to the affidavit of ——— filed in support of this Petition, requiring it to pay the sum so due forthwith and the Company for sixty days next succeeding the service of the said demand, neglected to pay said sum or to secure or compound the same to the satisfaction of your Petitioner.

11. On or about the ——— day of ———, 19—, the said Company called a meeting of its creditors for the purpose of compounding with them. Such meeting was held on the ——— day of ———, 19—, and the Company's creditors (*or* your Petitioner) refused to compound their debts (*or, as the case may be*).

12. On or about the ——— day of ———, 19—, the Company exhibited to its creditors and to your Petitioner a statement shewing its inability to meet its liabilities, a copy of which said statement is marked Exhibit "C" to the affidavit of ——— filed in support of this Petition.

13. The said Company has otherwise acknowledged its insolvency, and by its president and directors has admitted its inability to meet its liabilities, and has asked certain of its creditors for an extension of time for payment of its liabilities and the said Company is in fact insolvent.

14. The Company has assigned (*or* removed or disposed of) some (*or* all) of its property with intent to defraud, defeat or delay its creditors or some of them and the particulars thereof are as follows: ———.

15. The Company is about to assign, remove or dispose of some (*or* all) of its property with intent to defraud, defeat or delay its creditors or some of them, and the particulars thereof are as follows:

16. On or about the ——— day of ———, 19—, the Company, with intent to defraud, defeat or delay its creditors or some of them procured its money, goods, chattels, land, and property, or some of them, to be seized, levied on and taken under process of execution and the particulars thereof are as follows:

17. On or about the ——— day of ———, 19—, the Company executed (a general conveyance *or*) an assignment of its property for the benefit of its creditors to ——— of the ——— in the Province of Ontario.

18. On or about the ——— day of ———, 19—, the Company, being unable to meet its liabilities in full, made a sale or conveyance of the whole or the main part of its stock in trade or assets without the consent of its creditors and without satisfying their claims, the particulars thereof being as follows:

19. Your Petitioner (*or*, one John Jones) on the ——— day of ———, 19—, recovered judgment in this Honourable Court (*or, as the case may be*) against the Company for the sum of $——— and costs which costs were afterwards taxed and certified to the amount of $——— making a total sum of $——— recovered by the said judgment.

20. Your Petitioner (*or*, the said John Jones) subsequently upon the ——— day of ———, 19—, caused a writ of *Fieri Facias* to be issued out of this Honourable Court (*or, as the case may be*) against the said Company directed to the sheriff of (the City of Toronto) and the said sheriff did proceed thereunder and on the ——— day of ———, 19—, did seize levy upon and take in execution the goods, chattels, land and property, (*or*, some of the goods, etc.) of the Company; the said Sheriff has fixed the ——— day of ———, 19—, for the sale thereof, and the Company has permitted the said execution to remain unsatisfied, notwithstanding that it is now within four days of the time fixed by the said Sheriff for the said sale, and notwithstanding that the said execution has remained unsatisfied for fifteen days after the seizure by the said Sheriff (*or, as the case may be*). The said judgment and execution are wholly unpaid and unsatisfied and the amount is justly due and owing to your Petitioner (*or*, to the said John Jones).

21. Your Petitioners are also desirous that the affairs and business of the said Company should be investigated and that it should be made to appear in the interests of the creditors how the insolvency has been brought about and that the personal accounts of the president and directors and shareholders should be investigated and also that the claims of the different creditors should be investigated.

22. Your Petitioners are advised that no machinery exists except under "The Winding-up Act" R.S.C., 1906, c. 144 and the amending Acts to accomplish the above mentioned objects.

Your Petitioners therefore pray:

1. For a declaration that the above Company is a corporation to which the provisions of the Winding-up Act and amendments are applicable.

2. For a declaration that the Company ought to be wound up under the provisions of the said Act and amendments thereto and for an order directing the winding up of the said Company under the provisions of the Winding-up Act and amendments thereto.

3. For an order appointing a provisional liquidator of the estate and effects of the said Company.

4. For an order referring it to the Master in Ordinary (*or, as the case may be*) to appoint a permanent liquidator of the said Company and empowering and directing the said Master to take all necessary steps and conferring upon the said Master all the powers conferred upon the Court by the Winding-up Act and amendments thereto for the winding up of the said Company.

5. For an order that the costs of this Petition, the order for winding up and of the said reference, be taxed and paid to your petitioners out of the assets of the said Company.

6. And for such further or other order as to the Court may seem just. And your Petitioners will ever pray, etc.

Dated at ——— the ——— day of ———, 19—.

Witness:

Signature of Petitioner.

Note.—Allege as many grounds of insolvency as possible so that if defeated upon one ground the petition may succeed on another.

1162. INDORSEMENT ON PETITION.

This petition is filed by Messrs. ——— of No. ——— Street in the County of ———, solicitors for the within named petitioners, who carry on business at ———.

1163. NOTICE OF HEARING.

To be Endorsed on and Served with Petition.

Take notice that the within Petition will be presented and heard before the Honourable (the Presiding Judge) in Chambers at Osgoode Hall, in the City of Toronto, on ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the ——— noon or so soon thereafter as Counsel can be heard; and on such application will be read the affidavit of ———, this day filed (*if it is intended to examine witnesses in support of the Petition add:* and the depositions of ——— and ——— to be taken in support hereof *or* and the depositions of such witnesses as the Petitioner shall examine in support hereof) and such further or other material as Counsel may advise; and that if you do not appear on the said

Petition at such time and place the Court may make such order on the Petitioners' own shewing as shall appear just.

Dated at ——— this ——— day of ———, 19—.

Solicitor for Petitioner.

To ———.

1164. AFFIDAVIT IN SUPPORT OF PETITION.

1. I am the Petitioner herein (*or as the case may be*) and have knowledge of the matters connected with the said Petition, and of the facts herein deposed to.

2. I have read over the Petition of ——— for the winding up of the above named Company, which Petition is now shewn to me and marked Exhibit "A" to this my affidavit, and I say that such of the statements in the said Petition as relate to my own acts and deeds are true, and such of the said statements as relate to any of the acts or deeds of any other person or persons are true to the best of my knowledge, information and belief; the grounds of such information and belief regarding the acts and deeds of other persons are (the admission *or* admissions made to me by the president, *or* the officers or the directors of the said Company, *as the case may be. Name each party where possible.*)

3. Now shewn to me and marked Exhibit "B" to this my affidavit is a demand for payment of the sum of ——— dollars, due by the said Company to the Petitioner herein, which said demand was served upon the said Company in the manner in which process may legally be served on the said Company on the ——— day of ———, 19—, (*sixty days before the service of the Petition*) at the City of Toronto, as appears from the affidavit of ——— filed in support hereof.

4. At the time of the service of the said demand, namely, on the ——— day of ———, 19—, the said Company was justly and truly indebted to me (*or* the Petitioner), in the sum of $——— being the amount demanded, and the said sum was then due and payable.

5. The said Company has, for sixty days (*or* ninety days, *in the case of a bank*), since the service of the said demand neglected to pay such sum so demanded, or to secure or compound the same to my satisfaction (*or* to the satisfaction of the Petitioner).

6. The said Company is justly and truly indebted to me (*or* the Petitioner) in the sum of $———in respect of the matters set forth in the said Petition Exhibit "A" and the said sum of $——— is now due and payable by the Company to me (*or* the Petitioner).

7. Now shewn to me and marked Exhibit "C" to this my affidavit is a statement exhibited by the said Company to me (*or*, to the Petitioner herein) on the ——— day of ———, 19—, which statement shews the Company's inability to meet its liabilities.

8. Now shewn to me and marked Exhibit "D" to this my affidavit is (a promissory note made by the said Company in (my) favour (*or* of the Petitioner herein) for ——— dollars, upon which note this petition is based; *or* is a letter dated ——— written by the said Company to me (*or* to the Petitioner) wherein the debt upon which the Petition herein is based is acknowledged to be due and payable by the Company; (*or as the case may be*).

Note.—For the convenience of the Court it is usual to set out at length in the affidavit, some of the chief clauses in the Petition.

1165. WINDING-UP ORDER.

IN THE HIGH COURT OF JUSTICE.

The Honourable ———. } ——— the ——— day of ———, 19—.
In Chambers. }

In the matter of the Winding-up Act being chapter 144 of the Revised Statutes of Canada and amending Acts and

In the matter of ——— Company, Limited.

Upon the Petition of ——— a creditor (*or* shareholder) of the above named Company presented on the ——— day of ———, 19—, by ———, Esquire, Counsel for the said Petitioner, upon reading the said Petition, the affidavits of ——— and ——— filed, and the exhibits therein referred to and upon hearing what was alleged by Counsel for the said Petitioner, and for the said Company.

1. It is hereby declared that the said ———, Limited, is an incorporated Company within the provisions of the said Act and is insolvent and liable to be wound up by this Court, under the provisions of the said Act and the amendments thereto.

2. And it is further ordered that the said Company be wound up by this Court under the provisions of the said Act and amendments thereto.

1166. WINDING-UP ORDER.

Appointing Provisional Liquidator and Adjourning Further Consideration for Notice to Creditors.

1. (*As in previous order.*)

2. (*As in previous order.*)

3. And it is further ordered that ——— of the City of ——— in the County of ———, be and he is hereby appointed Provisional Liquidator of the estate and effects of the said Company (without security) (*or as the case may be*) until the appointment of a permanent liquidator pursuant to the provisions herein contained.

4. And it is further ordered that the further consideration of the said petition do stand adjourned until the ——— day of ——— at ——— o'clock in the ——— noon, before me (*or* the Presiding

Judge in the Chambers) at ———, and that in the meantime notice of the hearing of the said petition shall be given to creditors, contributors, shareholders and members of the said Company by advertisement published (once each) in the ——— and ——— newspapers published in the said City of ——— such advertisements, and the time of publication to be settled by the Registrar of this Court.

1167. ORDER OF REFERENCE.

Upon the application of ——— the petitioning creditor (*or* shareholder *as the case may be*) herein, in the presence of Counsel for the Company, upon reading the order made this day for the winding up of the said Company, and the papers and documents read and referred to on the application for the said order, and upon hearing what was alleged by Counsel for the Petitioner.

1. It is ordered that ——— of the City of ——— in the County of ——— be, and he is hereby appointed Provisional Liquidator of the estate and effects of the above named Company, upon giving security to the satisfaction of the Master in Ordinary (*or* ———, Esquire, an Official Referee, *or, as the case may be*) of the Supreme Court of Judicature for the due performance of his duties.

2. And it is further ordered that it be referred to the said Master in Ordinary (*or* Official Referee, etc.), to appoint a Permanent Liquidator or Liquidators of the estate and effects of the said above named Company, and to take all necessary proceedings for and in connection with the winding up of the said Company, and to fix the security to be given by the said Liquidator or Liquidators, upon his or their appointment, and the remuneration to be paid to the said Liquidator or Liquidators.

3. And it is further ordered, in pursuance and by virtue of the statute in that behalf, that all such powers as are conferred upon the Court by the Winding-up Act and amending Acts, as may be necessary for the said winding up of the said Company, be and the same are hereby delegated to the said Master in Ordinary (*or,* Official Referee, etc.)

4. And it is further ordered that the costs of the said Petition and order for winding up and of this motion of the applicant and of the said Company be taxed and be paid by the said Permanent Liquidator out of the assets of the said Company which shall come to his hands.

1168. AFFIDAVIT OF VALUE OF ASSETS.

(*Provisional Liquidator.*)

1. I am the Provisional Liquidator of the above named Company.

2. I have made an examination of the books, stock sheets and the assets of the said Company, which have come into my hands as such Provisional Liquidator.

3. The said assets and their value as nearly as I can now ascertain and compute the same, are as follows:—

Real estate, value	$10,000	
Less mortgage	$5,000	$5,000
Plant and machinery, value	$8,000	
Less machinery held on lien	$5,000	$3,000
Stock-in-trade		$15,000
Tools and fixtures		$500
Book debts	$4,000	
(All assigned to bank.)		
Total		$23,500

(*Set out under general headings any further assets there may be.*)

4. The liabilities of the said Company are, so far as I can ascertain at the present time $30,000.

1169. LIQUIDATION BOND.

(*Provisional and Permanent Liquidator.*)

Know all men by these presents that we (*Liquidator and Guarantee Company*) are severally held and firmly bound unto the Accountant of the Supreme Court of Judicature for Ontario, his successors and assigns, each in the penal sum of ——— dollars, to be paid to the said Accountant, his successors and assigns, for which payment well and truly to be made I, the said (*Liquidator*) bind myself, my heirs, executors, administrators and assigns, and we the said (*Guarantee Company*) bind ourselves, our successors and assigns, firmly by these presents.

Sealed with our seals and dated this ——— day of ———, 19—.

Whereas by an order made by the High Court of Justice and dated the ——— day of ———, 19—, and made in the matter of ——— Company, Limited, it was ordered and adjudged that the said ——— Company, Limited, was insolvent, and should be wound up pursuant to the provisions of the Dominion Winding-up Act and Amending Acts.

And whereas by a further order made by the High Court of Justice in the same matter, and bearing date the ——— day of ———, 19—, it was ordered that the said ——— should be Provisional Liquidator of the estate and effects of the said Company, and it was referred to the said Master to appoint a fit and proper

person or persons to be liquidator, or liquidators of the said Company, such liquidator or liquidators first giving security to the satisfaction of the said Master before he or they shall in any wise intermeddle with the property of the Company.

And whereas the said Master has appointed ——— the ——— day of ———, 19—, for the appointment of a Permanent Liquidator of the estate and effects of the said Company.

And whereas the said Master has approved of the above bounden (*Guarantee Company*) as sureties and has also approved of the above written obligation with the underwritten conditions as a proper security to be entered into by the said (*Liquidator*) pursuant to the said order as his security as said Provisional Liquidator and as Permanent Liquidator of the said Company (in case he shall be appointed as such) and in testimony whereof has signed an allowance in the margin hereof.

Now the conditions of the above obligation is such that if the above bounden (*Liquidator*) his executors or administrators or any of them do and shall duly and regularly keep and render all accounts which pursuant to the said Acts or any Act of the Parliament of Canada, and pursuant to the rules of the said Court in that behalf ought to be kept and rendered by him as Provisional Liquidator of the said Company, and as Permanent Liquidator of the said Company (in case he shall be appointed as such) and shall account for and duly and regularly pay over all and every such sum or sums of money as shall come into his hands on account of his holding either of the said offices at such periods and in such manner as in the said Act or Acts is directed or as the Court or the said Master shall from time to time direct, and shall also in all other respects faithfully fulfil, perform, and discharge all the duties of his said office and duly perform the trust reposed in him in respect thereof as such Provisional Liquidator or Permanent Liquidator (in case he shall be appointed as such) and shall in all things observe and perform the orders and directions of the said Court touching or concerning the property of the said Company and winding up thereof, then the above obligation shall be void; otherwise the same shall remain in full force and virtue.

And it is understood and agreed between the parties hereto and particularly by the said sureties, their successors and assigns, that a certificate under the hand of the said Master of the amount for which the said (*Liquidator*) is liable as such Provisional Liquidator or Permanent Liquidator (in case he shall be appointed as such) shall be sufficient evidence against him, his executors, and administrators and against the said (*Guarantee Company*), their successors and assigns, and all other parties of the liabilities and indebtedness, of the said (*Liquidator*) as such Provisional Liquidator or Permanent Liquidator (in case he shall be appointed as

such) to the amount of the sum stated in the said certificate, and shall form a valid and binding charge and claim not only against the said (*Liquidator*) as such Provisional Liquidator or Permanent Liquidator (in case he shall be appointed as such) his executors, administrators and assigns, but also against the said sureties, their successors and assigns, and the funds and property thereof, without it being necessary for the said Accountant, his successors and assigns to first take legal or other proceedings for the ascertainment thereof, and without any further or other proof being given or any action, suit or other proceedings taken to enforce this bond as against the said (*Liquidator*) or (*Guarantee Company*) or either of them; provided always that in taking and allowing the accounts of the said liquidator as such Provisional Liquidator or Permanent Liquidator (in case he shall be appointed as such) sufficient notice of the times and places when and where the said accounts of the said (*Liquidator*) as such Provisional Liquidator or Permanent Liquidator (in case he shall be appointed as such) are to be taken and allowed is to be given to the said (*Guarantee Company*).

In witness whereof the parties hereto have hereunto set their hands and seals this ——— day of ———, 19—.

Signed, sealed and delivered
In the presence of

Note.—If the bond be for a Permanent Liquidator only, amend the above form accordingly, and substitute for the third recital in the above form the following:—And whereas the said Master after due notice to the creditors and contributories of the said Company has appointed the above named ——— as Permanent Liquidator of the above Company, subject to his giving security to the amount above specified.

1170. NOTICE OF APPOINTMENT OF PERMANENT LIQUIDATOR.

Judicial Notice to Creditors, Contributories, Shareholders and Members of ——— Company, Limited.

(*Style of Cause.*)

Pursuant to the winding-up order in the matter of the above Company dated the ——— day of ———, 19—, the undersigned will on ——— the ——— day of ———, 19—, at ——— o'clock in the ——— noon at his Chambers (at Osgoode Hall in the City of Toronto, *or, as the case may be*) appoint a Permanent Liquidator of the above Company and let all parties then attend.

Dated, etc.

Signed
Master in Ordinary.
(*or, as the case may be.*)

1171. ORDER APPOINTING PERMANENT LIQUIDATOR.

Upon the application of ———, the Petitioning Creditor (*or*, shareholder) (upon reading the report of the result of the meetings of Creditors, etc., held respectively on the, etc.; *if meetings are held under section 61*), upon reading the affidavit, etc. (*proving publication, etc., of notice*) and upon hearing what was alleged on behalf of all parties:

1. It is ordered that ——— of ——— be appointed Liquidator of the above named Company upon his giving security to the amount of $——— for the due performance of his duties as such Liquidator.

2. And it is further ordered that the said Liquidator do deposit at interest in the Bank of ——— at ——— all sums of money coming into his hand belonging to the said Company whenever and so often as such sums amount to $100, pursuant to the Statute in that behalf.

3. And it is further ordered that the costs of and incidental to this application be costs in the winding up.

1172. APPOINTMENT OF SOLICITOR.

(*Section 35.*)

(*Style of Cause.*)

I hereby appoint ——— of the City of ———, solicitor, to act as my solicitor, and law agent in connection with the winding up of the above Company.

Dated, etc.

Liquidator.

Approved.

Master-in-Ordinary.

1173. ORDER CALLING MEETING.

This matter coming on this day in the presence of the liquidator and of certain creditors, contributories and shareholders of the said Company, upon hearing what was alleged by counsel for the liquidator, and by certain of the creditors, contributories and shareholders personally and by counsel.

1. It is ordered that a meeting of the creditors of the said Company be summoned and held for the purpose of ascertaining the wishes of the creditors of the said Company in respect to ——— (and of appointing a person or persons not exceeding four in number to represent them).

2. And it is further ordered that a separate meeting of the contributories and shareholders of the said Company be summoned

and held for the purpose of ascertaining the wishes of the said contributories and shareholders of the said Company in respect to the ——— aforesaid (and of appointing a person or persons not exceeding four in number to represent them).

3. And it is further ordered that the said meeting be summoned by ———, who is hereby appointed to act as chairman thereof and to report the results of the meeting to the ———, and to make a report to him of the lists of the creditors, contributories and shareholders who shall have voted at the said meetings if hereafter required.

4. And it is further ordered that proof of the claims of the creditors who vote at said meetings shall be to the satisfaction of the chairman thereof.

5. And it is further ordered that ——— do act as secretary of the said separate meetings and record their proceedings.

6. And it is further ordered that the said creditors, contributories and shareholders or such of them as may be ascertained be notified of the time, place and purpose of such meetings by notices sent to them respectively by registered mail addressed to their last known place of abode respectively.

7. And it is further ordered that the costs and expenses of and incidental to this application and order, and to the summoning and holding of the said separate meetings of creditors, contributories and shareholders, be costs in this matter to the said liquidator, and allowed to the said liquidator on passing his accounts.

Master in Ordinary.

1174. PROXY.

Section 66.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Winding-up Act, etc.

I, ———, of ———, a creditor (*or* a contributory) hereby appoint ——— of ——— to be my proxy to vote for me and in my behalf at the meeting of creditors (*or* shareholders) to be held in the above matter on the ——— day of ———, 19—, or at any adjournment thereof.

Dated this ——— day of ———, 19—.

Witness:

1175. WINDING-UP ORDER (BANK).

Directing Meetings of Shareholders and Creditors.

(Sections 149-159.)

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ——— } ——— day, the ——— day of
In Chambers. } ———, 19—.

In the matter of the ——— Bank, and

In the matter of the Winding-Up Act.

Upon the petition of ———, a creditor of the ——— Bank for a sum of not less than $1,000, and the petition of ———, a shareholder, being presented by Mr. ———, of Counsel for the said ———, and in presence of Counsel for The ——— Bank, and upon reading the affidavits filed in support of the said petition, and upon hearing what was alleged by Counsel aforesaid.

1. This Court doth declare that the above-named ——— Bank is an incorporated Bank within the meaning of the Winding-up Act, and that it is liable to be wound up under the provisions of the said Act.

2. And it is ordered that the further consideration of the said petition do stand adjourned until ——— day, the ———, 19—, at ——— o'clock in the ——— noon, and that notice of hearing of the said petition by advertisement published three times each in the ——— and ——— newspapers at ——— on the ——— day of July, the ——— day of August and the ——— day of September, 19—, as well as by advertisements published pursuant to section 159 of the Winding-up Act be deemed full and complete notice thereof to all parties entitled to be heard thereon.

3. And this Court doth declare pursuant to section 151 of the Winding-up Act that a meeting of the shareholders of the said Bank be summoned to meet at the Board Room of the said Bank, ——— Street, ———-, on ——— day, the ——— day of ———, 19—, at twelve o'clock noon, and that ———, Esquire, be and he is hereby appointed to act as Chairman at such meeting, and to conduct the same for the purpose of ascertaining the wishes of the shareholders as to the appointment of liquidator.

4. And it is further ordered pursuant to section 151 that a meeting of the creditors of the said Bank be summoned to meet on the same day at the same place at one o'clock in the afternoon and that ——— be and he is hereby appointed to act as Chairman of the said meeting, and to conduct the same for the purpose of ascertaining the wishes of the creditors as to the appointment of liquidators.

5. And it is further ordered that upon taking a vote at the said meetings regard be had to the provisions of sections 154 and 155 of the Winding-up Act, and that the respective Chairmen

report the result of such meetings to the Court on or before the ——— day of ———, 19—.

7. And this Court doth further order that the Clerk in Chambers do settle all necessary advertisements for the calling of the said meetings.

8. And this Court finding that ———, Esquire, has been appointed Curator of the said Bank pursuant to the provisions of the Bank Act, and is continuing to take all necessary steps to conserve the property of the said Bank and to realize upon its assets doth not see fit to appoint any interim liquidator of the said Bank, but directs that the said Curator continue to perform the duties and exercise the powers conferred upon him by the Bank Act pending the final disposition of the said petition.

1176. WINDING-UP ORDER (BANK).

After Meetings of Shareholders and Creditors.

(Sections 149-159.)

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———, In Chambers. ——— the ——— day of ——— 19—.

In the matter of the ——— Bank, and

In the matter of the Winding-up Act.

Upon the petition of ———, a creditor of the ——— Bank for a sum not less than $1,000, and the Petition of ———, presented unto this Court on the ——— day of ———, 19—, and being again this day presented to this Court by Mr. ———, of counsel for the said petitioners, in pursuance of the terms of an Order made in this matter bearing date the ——— day of ———, 19—, and upon reading the said Order, the Report of the meeting of shareholders of the said Bank held on the ——— day of ———, 19—, together with the affidavit verifying the same, the Report of the meeting of creditors of the said Bank held on the ——— day of ———, 19—, together with the affidavit verifying the same, the direction of the Clerk in Chambers published in pursuance of the Order of the Honourable Mr. Justice ———, dated the ——— day of ———, 19—, calling a meeting of the shareholders and creditors of the said Bank, published in the ——— newspaper on ———, 19—, together with the affidavits verifying such publication, and the affidavit of ——— verifying publication of the said direction in the Canada Gazette on ———, the Royal Gazette, New Brunswick, on ———, 19—, the Royal Gazette, Nova Scotia, on ———, 19—, etc., and the Order made herein dated ———, and upon hearing Counsel for the said petitioners and for the said ——— Bank.

1. It is hereby declared that the said The ——— Bank is an incorporated Bank and is insolvent within the meaning of the Winding-up Act and Amendments thereto; and doth order that the business of the said Bank shall be wound up under the provisions of the said Winding-up Act.

2. And it is further ordered that the said Bank be wound up by this Court under the provisions of the said Act and Amendments thereto.

II. Proceedings by Liquidator.

1177. ORDER GIVING LEAVE TO PROCEED AGAINST COMPANY.

(*Section 22.*)

Upon the application of A., the Plaintiff in an action against the above named ——— which action was commenced on ———, 19—, upon reading, etc. (and the applicant by his counsel undertaking not to proceed to enforce any judgment he may obtain against the said Company therein without obtaining the previous leave of the Court, or the Master in Ordinary, (*or, as the case may be*) to whom the winding up of the above Company has been referred).

1. It is ordered that the applicant shall be at liberty to proceed with the said action against the Company, notwithstanding the winding-up order made herein the ——— day of ———, 19—, and that he shall prosecute the same diligently to judgment.

2. And it is further ordered that the costs of the Liquidator of this application be costs in the winding up.

1178. ORDER ALLOWING LIQUIDATOR TO CONTINUE ACTION.

(*Section 34.*)

Upon the application of the (Provisional) Liquidator for the approval of the Court to continue and bring on to trial in the name of the said Company a certain action in (the High Court of Justice) wherein the above-mentioned ——— Company, Limited, is plaintiff and A.B. defendant; upon considering the proceedings in the said action and upon hearing what is alleged by Counsel for the Liquidator and by the solicitors on the Record for the plaintiffs in said action:

1. I do hereby order and direct that notice to the creditors, contributories, shareholders and members of the said Company of this application or of the continuance of the said action be and the same is hereby dispensed with.

2. And I do further order and direct that the said (Provisional) Liquidator may continue and bring to trial and judgment in the name of the said Company the said above mentioned action.

Master-in-Ordinary.

1179. ORDER GIVING LIQUIDATOR LEAVE TO SUE.

(*Section 34.*)

1. It is ordered that the liquidator be at liberty to institute an action in the High Court of Justice against A. to recover payment of the debt due from A. to the said Company and to proceed to the trial of the said action.

2. And it is further ordered that the costs of this application be costs on the winding-up.

1180. ORDER GIVING LIBERTY TO DEFEND.

(*Section 34.*)

Upon the application of the liquidator, upon reading his affidavit filed, and the writ of summons issued on the ——— day of ———, 19—, in an action brought by, etc.

1. It is ordered that the liquidator be at liberty on behalf of the said Company to take all necessary and proper proceedings as he may be advised by way of defence to the said action and to proceed to the trial thereof.

2. And it is further ordered that the costs of this application to be costs in the winding up.

1181. ORDER GIVING LEAVE TO CARRY ON BUSINESS.

(*Section 34.*)

1. It is ordered that the liquidator do carry on the works and business of the above named Company for the space of (three months) from the date of this order and for the purpose of carrying on such business the liquidator shall be at liberty to pay the salaries of workmen and any other necessary expenses for the proper carrying on of the said business, and to execute orders already received and use up the stock of raw materials now in his possession and to make such purchases of goods as may be proper in the ordinary course of business for cash, and from time to time to make such sales of the effects of the said Company as may be necessary or proper in the ordinary course of business.

2. And it is further ordered that the liquidator do, until further

notice, render accounts of the said business, so to be carried on, by him as aforesaid, once a month commencing on the 1st day of ———.

3. And it is further ordered that the costs of this application be costs in the winding up.

1182. ORDER GIVING LEAVE TO BORROW.

(*Section 34.*)

1. It is ordered that the liquidator be at liberty to borrow immediately or from time to time such sum or sums as he may require for the purpose of carrying on the business of the above Company and for payment of current expenses, and for the completion of the orders now in course of execution, etc., not exceeding in the whole ——— dollars, and the rate of interest on the amount borrowed not exceeding ——— per cent. per annum.

2. And it is further ordered that the amount so to be borrowed with interest thereon do constitute a first charge upon all the assets of the Company, subject only to any existing charge thereon and that the liquidator be at liberty to execute a proper instrument or instruments for perfecting such charge and that the costs of this application and of carrying out the said loan be paid out of the assets of the Company.

1183. ORDER GIVING LIBERTY TO SELL.

(*Section 34.*)

1. It is ordered that the said liquidator be at liberty to sell with the approval of the Court all the assets, real and personal effects and choses of action of the above Company by tender (*or* by auction or private sale, *as the case may be*).

And it is further ordered that the costs of this application be costs to the liquidator in the winding up.

(*Note.*—It is usual for the Master to merely make a direction for sale and this order is rarely taken out.)

1184. ADVERTISEMENT FOR SALE BY TENDER.

Judicial Sale of the Assets of ——— Company, Limited.

Tenders will be received by the undersigned up to ——— o'clock ——— noon of the ——— day of ———, 19—, for the purchase of ——— belonging to the estate of ——— Company, Limited, and situate in ———.

Tenders will be opened before ——— on ——— the ——— day of ———, at ——— o'clock ——— noon at his Chambers, Osgoode Hall, Toronto.

No tender necessarily accepted.

A certified cheque for ten per cent. of the amount thereof must accompany each tender.

Terms of Sale: One quarter cash, the balance in three instalments of six, nine and twelve months, with interest at 7 per cent., satisfactorily secured.

Dated, &c.

Liquidator.
Solicitors for Liquidator.

1185. ADVERTISEMENT FOR SALE BY TENDER.

Another Form.

Judicial Sale of the Assets of ——— Company, Limited.

Sealed tenders will be received addressed to "The Master-in-Ordinary, Osgoode Hall, Toronto," and marked "Tenders re ——— Company, Limited," up to ——— o'clock in the forenoon of ———, 19—, for the purchase of the following assets of the said Company, namely (*set out real estate in detail and subject to mortgage, if any*) and other assets.

Tenderers shall tender for the purchase of the first lot in one parcel, stating the amount of their offer for each of such three lots. Should no satisfactory offer be received for the purchase in one parcel tenders may be subsequently sent in for the purchase of the lots separately. The purchaser of lot one must assume the lien thereon. Tenders for the purchase of lots 4, 5 and 6 may be put in for the purchase of each lot.

The stock and stock-sheets and detailed schedules may be seen at the premises at ——— or on application to the Liquidator ——— Street, Toronto.

Terms of Sale: (Twenty per cent.) cash, including the ten per cent. marked cheque hereinafter mentioned, on acceptance of the tender and the balance in two and four months with interest at six per cent. to be secured to the satisfaction of the Liquidator. Tenders will be opened at the office of the Master-in-Ordinary, at Osgoode Hall, Toronto, at ——— o'clock in the forenoon on the ——— day of ———, 19—, when all persons tendering are requested to be present.

Tenders must be accompanied by a marked cheque payable to the order of the Liquidator for ten per cent. of the amount of the tender, which will be returned if the tender be not accepted. The highest or any tender not necessarily accepted.

As to parcel one the purchaser shall search the title at his own expense, and the Liquidator will not be required to furnish any abstract or to produce any deeds, declarations or evidence of title other than those in his possession. The purchaser shall have ten

days in which to make any objections or requisitions in respect of the title to the real estate or of the quantum of the assets in the schedules. And in case the purchaser shall make any objections or requisitions which the Liquidator shall from any cause be unable or unwilling to answer the Liquidator may at any time apply to the Master to adjudicate on the same or to rescind the sale whether he has or has not attempted to answer such objections or requisitions. In that case the purchaser shall be entitled only to a return of the deposit money without interest, costs or compensation.

The other conditions of sale are the standing conditions of Court as far as applicable.

For further particulars and conditions of sale application may be made to the Liquidator or his solicitor.

Dated at Toronto, this ——— day of ———, 19—.

1186. ORDER.

Approving Tender and Vesting Property.

1. It is ordered that the tender of A.B. ——— of $——— for the unrealized assets of the ——— Company, Limited, as the said assets existed on the ——— day of ——— is hereby accepted approved and confirmed.

2. And it is further ordered that upon payment to the said Liquidator by the said A.B. of the said sum of $——— all the said unrealized assets and all the real and personal and heritable and moveable property effects and choses in action of the said Company of what nature and kind so ever and wherever situated and existing to which the said Company was or appeared to be entitled or which was in the custody or under the control of the said Liquidators as the same existed on the ——— day of ——— is hereby vested in the said A.B., his heirs, executors administrators and assigns for ever to and for his and their sole and only use absolutely free from any and all conditions, reservations and deductions for expenses and otherwise whatsoever, and the said liquidator is hereby ordered and directed upon such payment being made to the said liquidator by the said A.B. to forthwith assign, deliver and hand over the same.

3. And it is further ordered that upon payment of the said purchase money as aforesaid that the said Liquidator in the name of the Company do execute such deeds, conveyances, assignments, transfers and endorsements of the said assets and any of them and each of them.

4. And it is further ordered that the said A.B., his executors, administrators and assigns be and they are each of them allowed to bring, commence and carry on and prosecute any

action or actions or suits for the recovery of the said real and personal and hereitable and moveable property, effects and choses in action hereby vested in him and for the recovery of each of them and for the proceeds thereof, and to use any and all lawful remedies, ways and means for that purpose that he or any of them may think proper.

1187. VESTING ORDER.

After Approval of Tender.

Upon the application of the Liquidator and of the purchaser of the unrealized assets of the ——— Company, Limited, upon reading the proof of publication of the advertisement for the sale by tender of the said assets of the said Company and the affidavit of ——— filed on behalf of the liquidator as to the value of same, and the tender of the said A.B. approved and accepted on the ——— day of ———, 19—, and the further affidavit of ——— filed on behalf of the liquidator in respect thereof, and upon hearing counsel for the liquidator, and it appearing that the purchaser has paid the said sum of $——— to the liquidator, being the amount of such tender accepted as aforesaid:

1. It is ordered that all the said unrealized assets and all the personal and movable property effects and choses in action of the said Company referred to in the said schedule hereto annexed and certified by the Master in Ordinary of the Supreme Court of Judicature for Ontario as the schedule of assets referred to in this order, and one copy of the said schedule being filed in the office of the said Master in Ordinary at Toronto, Ontario, shall be and they are and each of them is hereby vested in the said A.B., his heirs, executors, administrators and assigns forever to and for his and their sole and only use absolutely, and all the estate, right, title, interest claim, property and demand of the said Company and of the Liquidator thereof therein and thereto, and the said Liquidator is hereby ordered and directed upon such payment being made to the said Liquidator by the said A.B. to forthwith assign, deliver and hand over the same and every part thereof at the office of the said Liquidator to the said A.B. or to whom he may appoint.

2. It is further ordered that the said Liquidator in the name of the said Company do execute such deeds, conveyances, assignments, transfers and endorsements of the said assets and any of them and each of them whenever and so soon as the same may be presented to the said Liquidator for execution by the said A.B. or his legal representatives, or his assignees, all of which are to be prepared at the expense of the said A.B., and in the event of any disagreement as to the form of such conveyances, assign-

ments, transfers and endorsements, or any of them, the same shall be settled by the said Master in Ordinary.

3. And it is further ordered that the said A.B., his executors, administrators and assigns be and they are and each of them is hereby allowed to bring, commence and carry on and prosecute any action or actions, suit or suits, for the recovery of any of the property hereby vested in him, or the proceeds thereof, and to use any and all lawful remedies, ways and means for that purpose that he, they or any of them may think proper.

1188. CONVEYANCE.

This Indenture made (in duplicate) the ——— day of one thousand nine hundred and ———, in pursuance of the Short Forms of Conveyances Act.

Between ———, hereinafter called the Grantor of the First Part and ———, hereinafter called the Grantee of the Second Part.

Whereas by an order of the High Court of Justice made on the ——— day of ———, 19—, it was ordered that ——— Company, Limited, be wound up under the provisions of the Dominion Winding-up Act.

And whereas by an order made on the same day it was ordered that a reference be had to the Master in Ordinary.

And whereas pursuant to the said Order of Reference the Master in Ordinary set a day for the appointment of a Permanent Liquidator and ——— was appointed the said Permanent Liquidator.

And whereas pursuant to the said order, and the powers thereunder the hereinafter described property of the Company was advertised for sale and the (highest) offer received was that of the grantee herein for $——— which offer was accepted by the Liquidator with the approval of the said Master-in-Ordinary.

Now this Indenture witnesseth that in consideration of the premises and of the sum of $——— of lawful money of Canada, now paid by the said grantee to the said grantor (the receipt whereof is hereby by it acknowledged) it the said grantor doth grant unto the said grantee in fee simple, all and singular that certain parcel or tract of land and premises situate, lying and being in, etc.

To have and to hold unto the said party of the second part his heirs and assigns to and for his and their sole and only use forever subject nevertheless to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.

And the said grantor covenants with the said grantee that it will execute such further assurances of the said lands as may be requisite.

And the said grantor releases to the said grantee all its claims upon the said lands.

In witness whereof, etc.

III. Examination of Officers and Others.

1189. **LIQUIDATOR'S CERTIFICATE.**

For Order to Attend for Examination.

(*Section 117.*)

(*Court and Style of Cause.*)

I hereby certify that I have investigated the (Minute Book, Books of Account) and other papers of the above named Company which have come into my hands, and I find that the same do not throw sufficient light on (a number of transactions between the Company and its shareholders and other parties) (*or as the case may be*) and I submit that it would be in the interest of the creditors that ——— should be examined *viva voce* upon oath (*or* upon written interrogatories) concerning the affairs, dealings, estate and effects of the Company.

Dated.

Liquidator.

1190. **ORDER**

To Attend for Examination.

(*Sec. 117.*)

Upon the application of the Liquidator of the above named Company and upon reading the certificate of the said Liquidator this day filed:

1. It is ordered that ——— of the City of ———, in the County of ———, do attend before the Master-in-Ordinary of this Court at his Chambers, at Osgoode Hall, in the City of Toronto, on ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon and submit to be examined *viva voce* on oath under the provisions of section 117 of the Winding-up Act, R.S.C. (1906), Chapter 144, touching his knowledge concerning the affairs, dealings, estate and effects of the said Company.

2. And it is further ordered that the said ——— do produce upon such examination all and every book, paper, deed, writing or other document relating to the said Company or to the operations carried on by him for the said Company.

1191. MISFEASANCE SUMMONS.

To Officer of Company. (*Section 123.*)

(*Style of Cause, etc.*)

Let all parties concerned attend before the Master in Ordinary at his Chambers, Osgoode Hall, Toronto, on ——— the ——— day of ———, 19—, at the hour of 11 o'clock in the forenoon on the hearing of an application on the part of the liquidator of the above Company that it may be declared that ———, directors of the above named Company are guilty of misfeasance and breach of trust in relation to the above named Company (inasmuch as that all of the said directors excepting ——— acted as directors of the said Company without being duly qualified, and accepted presents or gifts of stock, so as to make it appear that they were duly qualified to act as directors and inasmuch as all of the said directors were parties to and approved of an improvident disposition of the stock of the said Company, and the handing of the same over to said ———, such disposition also being one by which all of the said directors, except the said ———, personally profited by obtaining stock from the said ——— without having paid for the same, and generally that the said directors acted in their own interests and contrary to the interests of the Company in breach of their duties as directors and of the provisions of the statute in that behalf.

And that it may be declared that they are jointly and severally liable to the said Company and to ———, Esquire, as the liquidator thereof to the extent of the amount of stock respectively obtained by them as above set out together with interest on the value of the said stock from the date of said misfeasance and breach of trust and also are liable to make good any loss which the said Company may have sustained by reason of such misfeasance or breach of trust and that the said directors may be ordered to pay to the applicant his costs of and relating to this application or for such other order as may be made in the premises and as the nature of the case may require.)

Master in Ordinary.

1192. ORDER DECLARING MISFEASANCE.

(*Section 123.*)

It is hereby declared that ——— and ——— are guilty of misfeasances and breaches of trust in relation to the above named Company and have become liable to contribute the several sums hereinafter mentioned to the assets of the above named Company, and it is ordered that the said several persons do within (four) days after service of this order upon them respectively pay to the

liquidator of the said Company the respective sums set opposite their respective names in the second column of the schedule to this order together with the liquidator's costs of and incidental to this application.

(*Schedule shewing names, amounts and costs.*)

1193. ORDER DECLARING MISFEASANCE.

Another Form. (*Section 123.*)

Upon reading the summons granted herein calling upon A.B. therein named to show cause why as in the said summons set forth in relation to the said Company in as much as he the said A.B. had, etc., he should not be declared to be indebted to the said Company in the sum of $——— and upon hearing counsel on the return of the summons, and upon reading the defence of the said A.B. and the claim of the said liquidator of the said Company, upon hearing the evidence of the witnesses and upon hearing what was alleged by counsel for the said A.B. and the said Liquidator on the issues raised between the said parties.

1. It is found and declared by this Court that the said A.B. had improperly as a director, officer and trustee of the said Company taken to his own use sums of money belonging to the said Company to the amount of $———.

2. And it is ordered that the said A.B. do on or before the ——— day of ———, 19—, pay in to this court to the credit of this cause the said sum of $——— with interest thereon from the ——— day of ———, 19—, at the rate of ——— per cent. per annum.

3. And it is further ordered that if the said A.B. should make default in the payment of the said sum of $——— and interest into court as aforesaid that C.D., the liquidator of the said Company as such liquidator shall be at liberty to issue writs of *fieri facias* against the said A.B. for the recovery of the said sum of $——— and interest as aforesaid and upon the recovery of the said moneys shall pay the same into Court as aforesaid to abide the order of this Court.

4. And it is further ordered that liberty to apply in respect of the matters herein be reserved to the said A.B.

5. And it is further ordered that the costs of the proceedings herein and hereunder be allowed to the said Liquidator as between solicitor and client out of the assets of the estate.

1194. MASTER'S CERTIFICATE

On Application to Court for Commission to Take Evidence.

At the request of the solicitors for the Liquidator and upon reading the affidavit filed I hereby certify that evidence respecting

(*set out points on whch evidence required*) and respecting other matters affecting the winding up of the said company should be taken in ——— in the state of ———, one of the United States of America where the head office of the said association is situated.

Master-in-Ordinary.

IV. Creditors.

1195. ADVERTISEMENT FOR CREDITORS.

(*Section 72.*)

Judicial Notice to the Creditors of the ——— Company.

Pursuant to the winding-up order made by the High Court of Justice in the matter of the Winding-up Act and amendments thereto and in the matter of the ——— Company, bearing date the ——— day of ———, 19—, the creditors of the above named Company and all others who have claims against the said Company formerly carrying on business in the ——— of ———, are on or before the ——— day of ———, 19—, to send by post, prepaid to ———, liquidator of the said Company, at his office, ——— Street ———, their Christian and surnames, addresses and descriptions, the full particulars of their claims and the nature and amount of the securities (if any) held by them and the specified value of such securities, verified by oath and in default thereof they will be peremptorily excluded from the benefits of the said Act and winding-up order.

The undersigned Master in Ordinary will on the ——— day of ———, 19—, at ——— o'clock in the forenoon at his chambers in Osgoode Hall in the City of Toronto, hear the report of the liquidator upon the claims of creditors submitted to him pursuant to this notice, and let all parties then attend.

Dated this ——— day of ———, 19—.

Solictors for Liquidator.

Master in Ordinary.

1196. AFFIDAVIT PROVING CLAIM.

(*Court and Style of Cause.*)

1. That the above named Company is justly and truly indebted to me in the sum of ——— (for goods sold and delivered by me to the said Company at its request as per statement hereunto annexed and marked "A") (*or as the case may be*).

2. That I hold no security for the said claim or any part thereof. (*If any security is held, the nature and amount and value should be stated*).

3. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say that I have not, nor hath nor have any other person or persons by my order or for my use received the said sum of $——— or any part thereof or any security or satisfaction whatsoever therefor.

Note.—If the affidavit is made by an agent he should state his knowledge of the claim, and the grounds of his knowledge.

1197. NOTICE TO ATTEND AND PROVE CLAIM.

(*Section 73.*)

(*Style of Cause.*)

Take notice that the liquidator disputes the claim against the above Company filed by you with him for the sum of $——— on the ground, etc.

And take further notice that the Master in Ordinary has appointed ——— the ——+ day of ———, 19—, at the hour of ——— o'clock in the forenoon for the consideration of your said claim and that if you do not then and there appear and prove your said claim to the satisfaction of the Court the same will be forever barred and you will be peremptorily excluded from the benefit of the winding up.

Dated, etc.

Liquidator.
By his Solicitors, etc.

1198. NOTICE TO ATTEND AND PROVE CLAIM.

Another Form.

(*Court and Style of Cause.*)

Take notice that the (Master-in-Ordinary) has appointed the ——— day of ———, 19—, at the hour of ——— o'clock, in the forenoon at his Chambers at (Osgoode Hall) in the (City) of (Toronto) to consider and dispose of your claim against the above named Company and take notice that you are then and there required to attend either personally or by your solicitor and give evidence in support of your said claim and that in default of your so doing your claim will be disallowed or otherwise disposed of in your absence.

Liquidator.
By ——— his solicitor.

1199. ORDER FOR PRODUCTION BY CREDITORS.

Upon the application of the Liquidator it is ordered that ——— and ——— claiming to be creditors of the above Company do within ten days after the service of this order on them or their

solicitors make discovery on oath of the documents which are or have been in their possesson or power relating to any matters in question in this matter and do produce the same to and deposit the same with the (Clerk of the Master in Ordinary of this Court at Osgoode Hall, Toronto) for the usual purposes.

Master-in-Ordinary.

1200. ORDER DISPENSING WITH NOTICE TO CREDITORS.

(*Section 124.*)

Upon the application of the liquidator of the above named Company upon hearing read the winding-up order herein dated the ——— day of ———, 19—, and the order of reference of the same date, and the order appointing ——— permanent liquidator of the above named Company, dated the ——— day of ———, 19—, upon reading the affidavit of ———, and considering the matter and hearing what was alleged by ———, counsel for the liquidator.

1. It is ordered that all acts, matters and things required or authorized by the above-mentioned Act and the amending Acts to be done by the liquidator, may be done by the said liquidator and particularly the acts, matters, things and powers referred to in sections 34 and 36 of the said Act, may be exercised by the said liquidator (without the approval, sanction or intervention of the Court and) without previous notice to the creditors, contributories, shareholders and members of the said Company, notice to such creditors, contributories, shareholders and members being hereby dispensed with.

2. (And it is further ordered that this order be read at the meetings of creditors, contributories and shareholders to be hereafter held as provided by order made herein on the ——— day of ———, 19—.)

3. And it is further ordered that the costs of this application and order be costs in the matter to the said liquidator.

Master in Ordinary.

1201. ORDER FOR DIVIDEND.

Upon the application of ———, Liquidator of the above named Company and upon hearing read the affidavit of ——— sworn ——— herein on the ——— day of ———, 19—, and the dividend sheet referred to therein as an exhibit setting forth the names of the creditors whose claims had been allowed and also the amount of the claims and other particulars, (and upon hearing read the order of the Master in Ordinary herein dated the

——— day of ——— declaring a first dividend of ——— in the dollar,) and upon hearing what was alleged by counsel for the liquidator:

1. It is ordered that the said Liquidator do pay out of the assets of the said Company to the respective creditors whose names are set out in the said dividend sheet, a dividend of 10c. in the dollar on the amount of their respective debts appearing by the said dividend sheet as depositors and general creditors (to be paid to them upon the reduced amount of their claims, namely, upon 85 per cent. thereof in pursuance of the compromise entered into between the last mentioned creditors and the debenture holders and in pursuance of the orders of the Master in Ordinary made herein and dated the ——— day of ———, 19—, and the ——— day of ———, 19—.)

2. And it is further ordered that the said dividend be paid by the said Liquidator on or about the ——— day of ——— or on such other date as the liquidator may determine.

3. And it is further ordered that the said liquidator do send notices of the intended payment of the said dividend setting forth the manner and place of such payment by mailing such notices to the said creditors of the above named company, addressed to them or their agents at the addresses as known to the liquidator, and such notices shall also contain a direction that objections, if any, to the said dividend under section 86 of the above mentioned Act are to be filed with the said liquidator not later than the ——— day of ———, 19—.

4. And it is further ordered that the liquidator do give notice of such intended payment of dividend as above mentioned by publishing such notice (once) in the newspaper at ———, and (once) in the newspaper at ———.

5. And it is further ordered that the costs of and incidental to this application be paid to the Liquidator out of the assets of the Company and be allowed to it in the passing of the Liquidator's accounts.

1202. AFFIDAVIT VERIFYING DIVIDEND SHEET.

1. I am the Liquidator of the above named ——— Company.

2. I have on hand as the amount available for the payment of a dividend of ——— cents in the dollar the sum of $———.

3. The total amount of the creditors' claims approved and allowed is $———.

4. That now shewn to me marked Exhibit "A" is the dividend sheet herein showing the names of the creditors whose claims have been allowed, the amount of the dividends already paid, and the changes since the payment of the last dividend by death assignment and otherwise.

5. That the following claims are outstanding and in dispute namely:—

6. That in view of the said assets of the said Company in hand and the probable future realizations as aforesaid, I hereby recommend to the Master in Ordinary that a dividend of ——— cents in the dollar on the said claims be approved and allowed.

Note.—The dividend sheet must have regard to privileged and secured claims. (Section 83.)

1203. NOTICE OF DIVIDEND.

(*Court and Style of Cause.*)

Notice is hereby given that a (first) dividend of ——— cents in the dollar has been declared in this matter on all claims against the said the ——— Company in liquidation, and that the same will be payable (by cheque at the office of the liquidator No. ——— Street, Toronto) on the ——— day of ———, 19—, or any subsequent day up to and inclusive of ———, the ——— day of ———, 19—, between the hours of 10 a.m. and 4 p.m. and that the dividend sheet may be seen at the offices of the Liquidator. Objections thereto, if any, under the section 86 of the Winding-up Act, R.S.O. (1906), Chapter 144, and amending Acts are to be filed with the said liquidator, not later than the ——— day of ———, 19—.

Dated the ——— day of ———, 19—.

Liquidator.

Solicitors for the Liquidator.

V. Contributories.

1204. AFFIDAVIT VERIFYING LIST OF CONTRIBUTORIES.

1. That I am the liquidator of the above named Company.

2. That the paper writing now shewn to me and marked Exhibit "A" contains a list of the contributories of the said Company who are contributories in their own right made up by me from the books and papers of the said Company together with their respective addresses and the number of shares attributed to each so far as I have been able to make up or ascertain the same.

3. That the paper writing now shewn to me and marked Exhibit "B" contains a list of the contributories of the said Company who are representatives of or liable for debts of others, made up by me from the books and papers of the said Company together with their respective addresses and the number of shares attributed to each, so far as I have been able to make up or ascertain the same.

4. That contained in said Exhibits "A" and "B" is a true and accurate list of the contributories of the said Company so far as I have been able to make up and ascertain the same.

5. The amounts appearing in the columns in said Exhibits "A" and "B" headed "Amount unpaid" is the amount unpaid upon the shares held by the several persons named as contributories in the said lists respectively.

If necessary add:—

6. It is necessary for the purpose of liquidating the liabilities of the said Company to its creditors (and of adjusting the rights of the contributories among themselves) that all of the amounts appearing to be unpaid upon the shares held by the several persons named in said Exhibits "A" and "B" should be forthwith paid up by them respectively.

EXHIBIT "A."

Name.	Address.	Description.	Number of Shares.	Amount unpaid.

EXHIBIT "B."

Name.	Address.	Description.	In what character included.	Number of shares.	Amount unpaid.

1205. ORDER DIRECTING CONTRIBUTORIES TO SHOW CAUSE.

1. It is ordered that each of the parties named in the (supplemental) list of contributories this day filed in the office of the Master in Ordinary, a copy of which list is attached as a schedule hereto, do attend before the said Master in Ordinary at his Chambers, at Osgoode Hall, in the City of Toronto, on the ——— day of ———, 19—, at the hour of eleven o'clock in the forenoon, and shew cause why each of the said parties so named in the said list, should not be settled on the list of contributories, and held to be a shareholder and contributory of the said ——— Company, Limited, for the number of shares and amount due thereon as set out in the said list so filed.

2. And it is further ordered that the said list of contributories be then settled and also the amounts due from each of the parties named in the said list as such contributories, or for which each of the said parties is liable as a shareholder in respect of the shares held by him as stated in such list.

3. And it is further ordered that in case any of the said persons named in the said list shall desire to contest the entry of his name on said list, or his liability in respect to the said number of shares, or in respect to the amount set out in the said list of con-

tributories, he shall file in the office of the Master-in-Ordinary, at Osgoode Hall, Toronto, and also serve on the liquidator or his solicitors on or before the ——— day of ———, 19—, a statement in writing setting forth his grounds of objection and defence to the said list and his being settled on the said list and liable as a contributory as aforesaid.

4. And it is further ordered that in case any of the said parties named on the said list and served as aforesaid shall refuse or neglect to serve a statement of objections and defence as aforesaid or to attend before the said Master-in-Ordinary at the time and place aforesaid, each said party shall be held to have admitted his liability as such contributory for the amount claimed against him on the said list, and that the said liquidator shall be entitled to judgment therefor and to issue proper writs of execution against the goods and chattels and lands of each of the said contributories, or such process as may be awarded for the collection of the said amounts, and that the said liquidator shall be entitled to take all other and necessary proceedings against the said parties without any further notice or service upon the said party so refusing or neglecting as aforesaid.

5. And it is further ordered that each of the said parties be served with a copy of the winding-up order and of the order of reference herein and of this order, and the schedule hereto attached (and such service may be made by mailing the same by registered mail in the Toronto General Post Office addressed to each of the said parties respectively, at their last addresses which appear in the books of the said Company.)

If necessary insert a clause as follows:—

5. And it is further ordered that ——— be appointed guardian-ad-litem for the following contributories whose names appear upon the said list, being infants, namely,—

1206. ORDER DIRECTING CONTRIBUTORIES TO SHOW CAUSE.

Where Contributories Widely Scattered.

1. It is ordered that each of the parties named in the list of contributories filed in the office of the Official Referee herein this day (a copy of which list is attached to this order) who shall be served with a copy of this order and of said list within the Province of (Ontario) do attend before the said (Official Referee) at his Chambers in the ———, Building in the City of ——— on the (fourteenth) day next after the day of the service thereof on said party inclusive of the day of such service or if said day shall happen to be a non-juridical day, on the first juridical day thereafter, at the hour of ——— o'clock in the forenoon, and show

cause why each of the said parties so named on the said list and served as aforesaid should not be settled upon the list of contributories and held to be a shareholder and contributory of the said Company for the number of shares and for the amount set out in the said list so filed.

2. And it is further ordered that as to such of the parties named on said list as shall be or are now or ordinarily resident out of the Province of (Ontario) the Liquidator shall be permitted to serve on each of said parties true copies of this order and of said list of contributories and of the Winding-up Order and Order of Reference herein in the Province, State or Country in which such party is or may be residing, and that such service of true copies of this order and of said list of contributories and of the Winding-up Order and Order of Reference herein shall be good and sufficient service of said orders and list on each party so served.

3. And it is further ordered that each of the parties named in the said list of contributories who shall be served with a copy of this order and of said list elsewhere than within the Province of (Ontario) do attend before said (Official Referee) at his said Chambers in the ——— Building in the City of ———, on the (twenty-eighth) day next after the day of the service thereof on said party inclusive of the day of such service, or if said day shall happen to be a non-juridical day on the first juridical day thereafter at the hour of ——— o'clock in the forenoon and show cause why each of the said parties so named on the said list of contributories and served as aforesaid should not be settled upon the said list of contributories and held to be a shareholder and contributory of the said Company in the character and for the number of shares stated therein.

4. And it is further ordered that the said list of contributories so far as the same affects each party so named therein be settled at the time and place at which such party is required to attend as aforesaid as to the name of such party and as to the character and number of shares in respect of which such party is included therein.

5. And it is further ordered that in case any party named in the said list and served with this order shall desire to contest the entry of the name of such party in the said list or shall object to the character or the number of shares in respect of which the same is entered therein, the said party shall file in the office of the said (Official Referee) in the ——— Building in the City of ———, and shall also serve on the Liquidator or its Solicitor at least (six) days before the day on which the said party is to appear before the said (Official Referee) as hereinbefore provided, a statement in writing setting forth the said party's grounds of contestation or objection.

6. And it is further ordered that every party named in the said list and served as aforesaid who shall not serve any notice of contestation or objection as aforesaid shall be deemed to admit that the name of such party has been properly entered upon and included in the said list in the character and for the number of shares stated therein.

7. And it is further ordered that every party so served desiring notice of any further proceeding herein shall serve upon the Liquidator, or (his) solicitor, a notice appointing some solicitor (of the Supreme Court of Judicature for Ontario) practising in the Province of (Ontario) as the Solicitor of such party upon whom or upon whose (Toronto) agent service of any notice or other proceeding directed by the Court to be served upon such party may be effected, and in default of the service of such notice or appointment such party shall not be entitled to be served with or to receive notice of any future or other proceeding herein.

8. And it is further ordered that the costs of this application and order and of the proceedings pursuant hereto be costs to the Liquidator in the Winding-up.

1207. ORDER ALLOWING SERVICE BY REGISTERED MAIL.

1. It is ordered that a copy of the Winding-up Order and of the List of Contributories filed and of the notice for settling the said list be served upon each of the parties named therein who are residents of Canada by mailing and registering in a sealed envelope addressed to each of the said parties according to the Post-Office address stated on the said list, the said copy of order, of the said list and of notice of settling the said list, and that the same addressed as aforesaid be mailed and registered at His Majesty's Post Office in the City of ——— on or before ——— day of ———, 19—, and in case the said parties appear the said service by mail shall be good service.

1208. STATEMENT OF CONTRIBUTORIES' OBJECTIONS.

A.B., one of the contributories named in the list of contributories, filed by the liquidator in the office of the Master-in-Ordinary in this matter objects to his name being settled on the said list and asks that the same be struck off on the following amongst other grounds:

1. The said A.B. never applied for shares in the said Company.
2. No shares were ever allotted to him.
3. If allotted, no notice of allotment was given to the said A.B.
4. The meeting of directors at which certain shares of stock are alleged to have been allotted to A.B. was an irregular meeting not duly constituted and the allotment of the said shares is irregular.

5. The directors who purported to allot certain shares of stock to A.B. were not the duly elected directors of the Company.

6. The application for shares made by A.B. was subject to a condition which has not been performed and he never became a shareholder in the said Company, etc., etc.

(*State all possible objections, and ask that the liquidator be ordered to pay the contributories' costs.*)

1209. ORDER STRIKING OFF LIST.

Upon the application of the Liquidator of the above-named Company to confirm the placing of ——— and ———, (*or* those persons whose names are set out on the schedule attached hereto) upon the list of contributories (and this application coming on for hearing on the ——— day of ———, 19—,) upon hearing the evidence adduced and the argument of Counsel as well for the said Liquidator as for the said contributories (and judgment having been reserved until this day).

1. It is ordered that the said application be and the same is hereby dismissed and that the said (persons) be struck off the list of contributories of the said Company.

2. And it is further ordered that the costs of the said (persons) of the said application be paid by the said Liquidator out of the assets of the said Company forthwith after taxation thereof.

1210. ORDER SETTLING UPON LIST.

Upon the application of the Liquidator and upon hearing what was alleged by Counsel for the several contributories named in Schedule A. hereto, and upon hearing the evidence adduced before me (and the several contributories named in Schedule "B" hereto having failed to appear though duly served as directed by my order of the ——— day of ———, 19—, as by affidavit of ——— appears) and judgment having been reserved until this day:

1. It is ordered that the several persons named in the said Schedule(s) are contributories in respect of the amounts set opposite their respective names.

2. And it is further ordered that the persons named in the said Schedule(s) do pay into The ——— Bank at ——— to the credit of the ——— Liquidator, on or before the ——— day of ———, 19—, the several sums of money set opposite their respective names in the said Schedule(s) with costs forthwith after taxation thereof and that in default of such payment as aforesaid execution do issue against the said parties respectively for the said amounts.

3. And it is further ordered that a copy of this order be served (by registered letter) upon each of the said persons respectively and also upon ——— the solicitors of the parties named in Schedule A hereto.

4. And it is further ordered that the costs, charges and expenses of the said Liquidator of this application as between solicitor and client be, so far as the same are not recovered from the contributories as aforesaid, paid out of the assets of the said Company after taxation thereof.

1211. REPORT SETTLING LIST.

Pursuant to the Winding-up Order herein dated the ——— day of ———, 19—, whereby it was referred to me to settle the list of contributories of the above named Company, having been attended by the solicitor for the Liquidator, the solicitors for the several contributories mentioned in Schedule "A" hereto excepting ——— appearing before me in person, and the several contributories mentioned in Schedule "B" hereto failing to attend before me although having been duly served with the Winding-up Order and the notice given pursuant thereto, as has been made to appear to my satisfaction:

1. I find and certify that the several persons named in the Schedule "A" are contributories in respect to the amounts set opposite their respective names in said Schedule "A."

2. And I further find and certify that the several persons named in the Schedule "B" hereto are contributories in respect of the number of shares and for the amounts set opposite their respective names in said Schedule "B."

3. I further find and certify that the several persons named in Schedule "C" hereto have been represented before me by solicitors and that I find them to be contributories in respect of the amounts (also set out in said Schedule) set opposite their respective names.

4. And I make this report reserving the settlement of a further or additional list of other contributories for another report.

1212. COMPROMISE.

Contributory's Affidavit. (Section 36.)

1. I am a contributory of the above Company and have been settled on the list for the sum of $———, and the said sum has been called.

2. I am unable to pay the said sum in full.

3. The paper writing now shewn to me, and marked with the letter A, contains a full and true account of all the property and effects, real and personal, which I possessed, or in which I had

any share or interest in possession, reversion or expectancy at the date of the winding-up order herein on the ——— of ———, and also of all such parts of my said property as have since been sold, or contracted to be sold, and the price at which such sales or contracts have been paid, and as nearly as I can ascertain the full and true value of all such parts thereof as still remain to be sold.

4. I have no property whatsoever, real or personal, of any description, nor am I entitled either in possession or reversion to any share or interest in any property whatsoever which is not included in the said statement.

5. I have not made away with, incumbered or charged, settled or in any manner parted with any part of my property or effects, real or personal, since the winding up of the said Company on the ———, 19—, save as appears by the said account.

6. The paper writing now produced and shewn to me, marked B, contains a true and just account of all sums of money received and paid by me since the ———, 19—, down to the ———, 19—, instant.

7. My income is derived from a salary of ——— per annum, which I receive from my employers, Messrs. ———, and such income has not for the last two years exceeded the sum of ——— per annum.

(*And any other special clauses.*)

1213. AFFIDAVIT OF LIQUIDATOR

As to Proposed Compromise with Contributory.

1. H., of ———, has been settled on the list of contributories of the above named Company in respect of ——— shares therein, and by an order in these matters dated, etc., a call amounting to ———, etc.

2. The said H. has applied to me to accept a compromise of ———, to be paid as follows, etc., and ——— towards the costs of the agreement for the said compromise, in full discharge of his liability in respect of the said call ———, and all liability as a contributory of the said Company.

3. I have investigated the affairs of the said H., who has made an affidavit as to his means, dated the ——— day of ———, (and have caused him to be cross-examined on such affidavit, *if such is the fact*), and as a result of such investigation (and cross-examination) it appears that the said H. cannot pay the said call; and I believe that I cannot obtain by process of execution as much as I shall by the said compromise. I believe that it will be beneficial to the said Company that the said compromise shall be accepted.

1214. AGREEMENT FOR COMPROMISE.

(*Style of Cause.*)

Memorandum of agreement entered into this ——— day of ———, 19—, between R.P.H., of, etc., the liquidator of the above-named Company of the one part, and S.B., of, etc., one of the contributories of the said Company of the other part.

Whereas the said S.B. has been settled on the list of contributories of the said Company as a contributory in respect of ——— shares in the said Company; and whereas by an order made by the High Court of Justice dated the ——— day of ———, 19—, a call of $——— per share was made on all the contributories of the said Company, and there is now due from the said S.B. to the said Company the sum of $——— in respect of the said call. And whereas the said S.B. has proposed to pay the said liquidator the sum of $——— by way of compromise and in satisfaction and discharge of the said sum of $——— and of all liability whatsoever as a contributory of the said Company. And whereas the said liquidator, having investigated the affairs of the said S.B. and believing that such compromise will be beneficial to the said Company, hath in exercise of the power for that purpose given to him by the above statute agreed to accept the same, subject to the sanction of the Master-in-Ordinary and to the conditions and agreements hereinafter contained. And the said Master-in-Ordinary having sanctioned the said compromise and having approved of this indenture as testified by his signature in the margin hereof. Now it is hereby agreed by and between the said parties hereto:

1st. That the said liquidator shall before the ——— day of ——— next apply to the said Master-in-Ordinary to sanction this agreement of compromise.

2nd. That upon this agreement being sanctioned by the said Master, the said S.B. shall, within ——— days next after such sanction, pay to the said liquidator the said sum of $——— and when thereto required shall do and execute all such acts and deeds as may be necessary for transferring or surrendering and releasing to the said liquidator on behalf of the said Company or in such manner as the said Master may direct, the said shares held by the said S.B. in the said Company and all claim and demand whatsoever which the said S.B. has or may have against the said Company in respect of the said shares, or the distribution of the assets of the said Company or otherwise howsoever.

3rd. That the said sum of $——— and the transfer or surrender and release of the said shares and interests of the said S.B. as aforesaid, shall be accepted by the said liquidator as and shall be deemed and taken to give to the said S.B. a full and complete discharge from all calls and liabilities, claims and demands whatso-

ever, which the said Company or the said liquidator thereof, now has or may hereafter have or be entitled to against the said S.B. in respect of his being or having been the holder of the said shares or otherwise as a contributory of the said Company.

4th. That in case this agreement shall not be sanctioned by the said Master it shall cease and determine and the said liquidator and the said S.B. shall be remitted to their original rights with respect to each other, as if this agreement had not been entered into.

5th. That in case this agreement shall be sanctioned by the said Master and the said S.B. shall not in all respects perform the same on his part, the said liquidator shall be at liberty, with the sanction of the said Master and without notice to the said S.B., to enforce the performance thereof, or, with the like sanction to give notice to the said S.B., that he abandons this agreement whereupon the same shall cease and determine and the said liquidator shall be entitled to proceed against the said S.B. to enforce payment of the full sum of $——— or so much thereof as shall then remain due and unpaid, as if this agreement had not been entered into.

1215. ORDER CONFIRMING AGREEMENT FOR COMPROMISE

With Contributory.

1. It is ordered that the conditional agreement dated, etc., and made, etc., for the compromise of the debt of $———, due from the said X., (as a contributory of the above-named Company) be confirmed and carried into effect.

1216. ORDER APPROVING COMPROMISE

Without Formal Agreement.

Upon the application of the liquidator to accept from ——— the sum of $——— in full of the liability of ——— a contributory of the above named Company as such contributory and in respect of ——— shares of the unpaid capital stock of the said Company standing in the ——— name of the said ——— upon reading the affidavit of ——— (and the Advisory Committee through the sub-committee appointed by them having approved of the acceptance of the said sum of $——— as appears by the resolution of the said sub-committee attached to the said affidavit of ———) and upon hearing what was alleged by Counsel for the liquidator.

1. It is ordered that upon payment to the liquidator within two weeks from the date hereof of the said sum of $——— such sum be accepted by the liquidator in full discharge of the said ——— liability as a contributory of the said Company in respect of the unpaid stock standing in her name.

2. And it is further ordered that the said liquidator do give to the said ——— a discharge and release from her liability as aforesaid if demanded.

3. And it is further ordered that the costs of and incidental to the said compromise and of this order and the said release be paid to the Liquidator out of the assets of the Company and be allowed in the passing of the Liquidators' accounts.

1217. ORDER FOR PAYMENT OF CALL

Due Before Winding-up. (*Sec. 56.*)

1. It is ordered that A.B., a contributory of the said Company for the time being settled on the list of contributories, do within (seven) days after service of this order upon him pay to the said liquidator at his office Number ——— in the City of Toronto the sum of $———, being the amount due in respect of a call on the shares in the said Company due by him before the commencement of the winding up of the said Company together with interest thereon at the rate of ——— per cent. per annum from the ——— day of ———, 19—, (*date of call*) until payment.

2. And it is further ordered that the said A.B. do at the said time and place pay to the liquidator the costs of this application after taxation thereof.

1218. NOTICE OF MOTION FOR SAME.

(*Section 56.*)

Take notice that a motion will be made on behalf of the Liquidator of the above named Company before the Master-in-Ordinary at Osgoode Hall, in the City of Toronto, on ——— day the ——— day of ———, 19—, at the hour of (eleven) o'clock in the (fore) noon or so soon thereafter as the motion can be heard, for an order that all calls already made by the Board of Directors of the said Company may be forthwith paid (and for an order making all future calls that may be necessary for the liquidation of the said Company and for the payment thereof) and for such further or other relief as may be required. In support of such motion will be read the affidavits of ———, the report of the Master dated ——— and the proceedings therein.

Solicitors for Liquidator.

1219. ORDER SANCTIONING CALL

Made in the Course of Winding up. (*Sec. 57.*)

Upon the application of the liquidator, etc., it is ordered that leave be given to the liquidator to make a call of $——— per share on all the contributories of the said Company (*or as the case may*

be); and it is ordered that each such contributory do, on or before the ——— day of ———, 19—, pay to the liquidator of the ——— Company the amount which will be due from him or her in respect of such call.

1220. ORDER FOR PAYMENT OF CALLS.

Upon the application of the liquidator of the above-named Company and upon reading, etc., it is ordered that C.D. of etc., (*or* E.F. of, etc., the legal personal representative of L.M., late of, etc., deceased, one of the contributories of the said Company (*or, if against several contributories,* the several persons named in the second column of the schedule to this order, being respectively contributories of the said Company), do on or before the ——— day of ———, 19—, (*or* within (four) days after service of this order), pay to the liquidator of the said Company at his office, No. ——— Street, in the City of ———, the sum of $———, (*if against a legal personal representative add,* out of the assets of the said L.M., deceased, in his hands to be administered, *or if against several contributories,* the several sums of money set opposite to the respective names in the ——— column of the said schedule hereto) such sum (*or sums*) being the amount, (*or amounts*) due from the said C.D. (*or* L.M., *or* the said several persons respectively, in respect of the call of $——— per share duly made.

1221. ORDER FOR CALL AND PAYMENT.

Upon the application of the liquidator, in the presence of counsel for certain creditors and in the presence of counsel for ——— and in the presence of ——— in person, no one appearing for the other contributories although duly notified in that behalf as by affidavits of service appears.

Upon reading the affidavit of the liquidator of the said Company filed on this application and the exhibits therein referred to, and upon hearing what was alleged by counsel aforesaid (and it appearing that there are certain of the persons settled on the list of contributories herein who have already paid or who have arranged with the said liquidator for the payment of the amounts found due by them as contributories of the said Company and that there are certain others who have not been served with notice of this motion and against whom no order is asked at present.)

1. It is ordered that all the persons named in schedule "A" to this order being contributories of the said Company for the time being settled on the list of contributories by the report of the Master in Ordinary dated the ——— day of ———, 19—, do, on or before the ——— day of ———, 19—, pay into the ———

bank at the ——— to the credit of the liquidator of the above Company the several sums of money set opposite their respective names in schedule "A" and that in default of such payment as aforesaid execution do issue against the said parties respectively for the said amounts, subject as above-mentioned.

3. And it is further ordered that the amounts found due by the persons named in schedule "B" hereto annexed who are representatives or trustees for other parties and named in the books of the Company as executors or trustees of other parties, be paid into the said bank to the credit of said liquidator out of the amounts that come to their hands, or which may hereafter come to their hands respectively as such executors and trustees and not otherwise.

4. And it is further ordered that as to person described in Schedule "C" hereto as being married women the amount found due by them respectively as contributories of the said Company be payable out of their separate property and not otherwise.

5. And it is further ordered that execution against the parties referred to in the preceding paragraph hereof be limited to the separate property of the said parties not subject to any restrictions against anticipation unless by reasons of section 21 of the Married Women's Property Act such property shall be liable to execution notwithstanding such restrictions.

6. And it is further ordered that the liquidator be at liberty to apply hereafter as he may be advised (for an order for payment of the amount of their several liabilities by those contributories not yet served above referred to) (*or as the case may be*).

7. And it is further ordered that the costs, charges and expenses of the said liquidator of this application as between solicitor and client be paid out of the assets of the said Company after taxation thereof.

1222. LIQUIDATOR'S AFFIDAVIT SHOWING NECESSITY FOR CALL.

1. I have in the schedule now produced and shewn to me, and marked with the letter "A," set forth a statement shewing the amount due in respect of the debts proved and admitted against the said Company, and the estimated amount of the costs, charges and expenses of and incidental to the winding up the affairs thereof, and which several amounts form in the aggregate the sum of $——— or thereabouts.

2. I have also in the said schedule set forth a statement of the assets in hand belonging to the said Company, amounting to the sum of $——— and no more. There are no other assets belonging to the said Company, except the amounts due from certain of the

contributories of the said Company, and to the best of my information and belief it will be impossible to realize in respect of the said amounts more than the sum of $——— or thereabouts.

3. ——— persons have been settled on the list of contributories of the said Company in respect of (*total number*) shares.

4. For the purpose of satisfying the several debts and liabilities of the said Company, and of paying the costs, charges and expenses of and incidental to the winding up the affairs thereof, I believe the sum of $——— will be required in addition to the amount of the assets of the said Company mentioned in the said Schedule "A" and the sum of $———.

5. In order to provide the said sum of $——— it is necessary to make a call upon the several persons who have been settled on the list of contributories as before mentioned, and having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that for the purpose of realizing the amount required, as before mentioned, it is necessary that a call of $——— per share (*or* ——— per cent.) should be made.

VI. Staying and Completing Liquidation.

Passing Accounts.

1223. ORDER DISCONTINUING WINDING UP.

Creditors Having Been Satisfied. (Sec. 19.)

Upon motion made this day on behalf of ——— a creditor of the above named Company upon hearing read the affidavit of said ——— and the affidavit of ———, Liquidator of the said Company, and upon hearing what was alleged by Counsel for said ——— and said Liquidator and upon reading the order to wind up the said Company dated the ——— day of ———, 19—, and it appearing that the claims of all the creditors of the said Company have been satisfied, and it further appearing that the fees and expenses of the said Liquidator have been paid, also that the costs of the solicitor for the said Liquidator have been paid.

1. It is ordered that all further proceedings under the said order dated the ——— day of ——— be, and the same are hereby altogether stayed.

2. And it is further ordered that the Liquidator be and he is hereby discharged, and that the bond given by him as Liquidator of the said Company be taken off the files of this Court and cancelled.

1224. ORDER STAYING LIQUIDATION

And Restoring Company. (*Sec. 19.*)

Upon the application of, etc., upon reading the affidavit of, etc., and the orders made the ——— day of ———, 19—, declaring the said Company insolvent and appointing ——— Provisional Liquidator thereof, and referring it to ———, Official Referee, to appoint a Permanent Liquidator, and to take all necessary proceedings in connection with the winding up of the Company, and it appearing that there are now no creditors of the said Company other than the Petitioner, ———, and that the shareholders in meeting duly called for that purpose pursuant to the order of the Court, have determined that in their opinion it is in the interests of the Company that the same should be taken out of liquidation, and have passed upon and accepted the accounts of the Liquidator, and that the Liquidator has duly accounted for all moneys or assets which have come to his hands, and upon hearing what was alleged by Counsel for the Petitioner and for the Liquidator.

1. It is ordered that all proceedings taken under the said orders of this Honourable Court dated the ——— day of ———, 19—, be and the same are hereby altogether stayed.

2. And it is further ordered that the said Company be and it is hereby restored to its former status and all the rights, powers and privileges incident thereto, by it enjoyed prior to the making of the said orders dated the ——— of ———, 19—.

3. And it is further ordered that the Liquidator do transfer and deliver to the said Company all assets, papers, documents and other the property of the said Company (except original vouchers) that have come to his hands as such Liquidator.

4. And it is further ordered that ——— the said Liquidator be, and he is hereby discharged from his office as Liquidator of the said Company and from all further liability as such Liquidator.

5. And it is further ordered that the bond (if any) given by the said ——— to the Accountant of the Supreme Court of Judicature for the due performance of his duties as such Liquidator, be delivered up to the said ——— and that the same be cancelled and discharged.

1225. NOTICE OF PASSING LIQUIDATORS' ACCOUNTS

And Concluding the Liquidation.

(*Court and Style of Cause.*)

Take notice that the undersigned Master-in-Ordinary has appointed ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon at his Chambers in Osgoode Hall,

in the City of Toronto, to pass the Liquidators' accounts, declare the final dividend, settle the Liquidator's remuneration, direct taxation of costs and settle report herein, and finally wind up the liquidation of the above Company, and let all parties then attend.

Dated this ——— day of ———, 19—.

Master-in-Ordinary.

1226. LIQUIDATOR'S AFFIDAVIT ON PASSING ACCOUNTS.

1. That I am liquidator of the above Company duly appointed by the order of ———, Esquire, official referee.

2. That now shewn to me and marked Exhibit "A" to this my affidavit is a true and correct account of my dealings with the assets of the said Company and correctly sets out my dealings with same.

3. The only assets of the above Company which came into my hands on my appointment as Permanent Liquidator were the stock and real estate of the said Company and there was no cash on hand or other assets of the said Company at that date.

4. As shewn in said Exhibit "A" the total amount realized from the sale of the real estate and stock was $——— and I have also caused to be collected the sum of $———, the balance due by various contributories for unpaid stock subscribed and which amount of $——— is the total amount received by me for unpaid stock subscriptions.

5. The disbursements which I have made in connection with the winding up of the said Company total $———, as shewn in said Exhibit "A."

6. The amount is made up of the following payments:

(*a*) $——— paid the ——— Bank under order of the official referee herein, for which payment was received the securities held by the ——— Bank and valued by them at the said sum.

(*b*) The sum of $——— paid ——— representing the costs of ———'s solicitors and paid to them under an order of the said official referee herein.

(*c*) The sum of $——— for rent.

(*d*) The sum of $——— for taxes and insurance.

(*e*) The sum of $——— paid ——— of which $——— were the costs of the Company payable under the winding-up order, the remaining $——— being the costs of ——— on taxation herein, payable under the direction of the said official referee.

(*f*) The sum of $——— being the liquidator's travelling expenses herein.

(*g*) The sum of $——— which I paid under a taxing officer's certificate to my solicitors for services rendered in the winding up of the estate, and the sum of $——— paid to ———, Esquire, official referee, on account of his fees.

7. That set out in the said schedule is the sum of $——— being the amount realized by me on the securities purchased from the ——— Bank for $———.

8. The disbursements in paragraph five are my total disbursements in connection with the estate and deducting this amount from the total amount of assets received by me, there is left in my hands for payment to creditors the ——— sum of $———.

9. The only remaining assets in my hands are certain of the securities above mentioned, and which were purchased by me from the ——— Bank and which securities I have been unable to realize upon. So far as I can ascertain the debtors are worthless and it would be a useless expense to the estate to take legal proceedings against them. The said securities have been passed upon by the official referee.

1227. ORDER ON PASSING ACCOUNTS.

Pursuant to the orders made herein by the Honourable ——— and dated the ——— day of ———, 19—, whereby it was ordered that the ——— Company, Limited, should be wound up and it was referred to me to appoint a permanent liquidator and to take all necessary proceedings for and in connection with the winding up of the said Company, I hereby certify and report:—

1. That on the ——— day of ———, 19—, I appointed ———, Esquire, of the City of Toronto, in the County of York, liquidator of the Company, he having given security to my satisfaction.

2. That the assets of the said Company were disposed of by the said liquidator with my approval and the sum of $——— realized therefrom.

3. That the sum of ——— was realized from contributories liable for unpaid stock.

4. That the sum of ——— was realized from certain securities taken over by the liquidator from the ——— Bank with my approval for the sum of $——— the amount at which the said securities were valued by the said bank.

5. That the amounts referred to in the next three preceding paragraphs together constitute the total amount of the assets of the above Company, realized by the liquidator.

6. That the amount of unsecured claims against the said Company which have been admitted by the liquidator with my approval is $———.

7. That the claim of the ——— Bank referred to in the fourth paragraph hereof was the only secured claim against the said Company.

8. That the preferred claims for wages and rent admitted and paid by the liquidator with my approval amounted to $———.

9. That the disbursements of the said liquidator passed before me amounted to the sum of $———.

10. That I have allowed to the said liquidator as remuneration for his services the sum of $———.

11. That I have allowed for subsequent fees, costs and disbursements the sum of $———.

12. That after all proper deductions have been made I find that there is the sum of $——— in the liquidator's hands available for distribution.

13. That I have directed a dividend of ——— cents on the dollar to be paid to the creditors of the said Company whose claims have been admitted by the liquidator with my approval and whose claims are referred to in the 6th paragraph hereof, the total amount of the dividend being $———.

Dated at Toronto, this ——— day of ———, 19—.

1228. ORDER DISCHARGING LIQUIDATOR.

Upon the application of ——— the liquidator herein, and upon hearing the proceedings and evidence in this matter, and it appearing that the said ——— has accounted for all moneys received by him and has paid all accounts and dividends ordered except as to certain small sums amounting to the sum of $——— mentioned in his accounts herein and for which it appears that he has issued cheques to the several parties mentioned in said accounts;

1. It is ordered that the said ——— be and he is hereby discharged from further liability and from his office as such liquidator.

2. And it is further ordered that the bond given by him on his appointment as such liquidator be delivered to him, cancelled and discharged.

3. And it is further ordered that in case the cheques for the several sums amounting to the said sum of $——— be not presented to the ——— Bank within three years from the date of this order the said bank shall at the end of the said three years pay over the same or so much thereof as shall be then remaining in the said bank unclaimed with the accrued interest thereon to the Minister of Finance pursuant to the 136th section of the above Act.

1229. ORDER DISCHARGING LIQUIDATOR

And Reserving Questions Between Contributories.

1. It is ordered that the Liquidator be and he is hereby authorized to pay out of the assets of the Company in his hands the claims of creditors in full as set forth in the schedule hereto attached.

2. And it is further ordered that the liquidator be allowed to retain out of the moneys in his hands the sum of ——— dollars

as and for his remuneration for the performance of his duties as Liquidator in this matter up to and including the date hereof.

3. And it is further ordered that the Liquidation proceedings herein, so far as the creditors of the Company are concerned, shall be deemed to be closed and the bond delivered up to be cancelled.

4. And it is further ordered that all questions between members of the Company and the contributories and all questions affecting the contributories as between themselves be reserved to be hereafter dealt with upon the application of any member or contributory.

PART IV.

PROCEEDINGS BEFORE SPECIAL COURTS AND TRIBUNALS.

CHAPTER LV.

ARBITRATION PROCEEDINGS.

Arbitration Act, 9 Edw. VII. (1909), Ch. 35.

1230. SUBMISSION OF PRESENT DIFFERENCES.

This agreement made in duplicate this ——— day of ———, A.D. 19—.

Between A.B. of the First Part, and C.D. of the Second Part.

Whereas the party of the Second Part owns the folowing lands and premises, being described as follows, that is to say:—and he desires to have the right of ingress and egress to and from the said property to the cross avenue from ——— Street, in the City of ———, and the parties hereto are unable to agree as to the price to be paid to the party of the first part for such right.

Now therefore this indenture witnesseth that the said parties hereto severally appoint ——— as Single Arbitrator under the provisions of The Arbitration Act, to determine the said price.

In witness whereof the said parties hereto have hereunto set their hands and seals.

Signed, sealed and delivered
in the presence of

1231. SUBMISSION TO ONE ARBITRATOR.

We, ———, of ——— and ——— of ——— do hereby refer all matters in dispute relating to ——— between us to the award and determination of ——— of ———, whose decision and award shall be final and binding upon us and our respective heirs, executors, administrators and assigns, and who shall have all the powers given by "The Arbitration Act," Ontario, to arbitrators, and who may proceed *ex parte* if he think fit after such notice as he may deem reasonable.

1232. SUBMISSION TO THREE ARBITRATORS.

This agreement made the ——— day of ———, 19—, between ——— of ———, of the one part, and ——— of ———, of the other part.

Whereas certain disputes and differences have arisen and still exist between the said parties relative to (*set out the matters in dispute*).

Now it is hereby agreed by and between the parties hereto that the said disputes and causes of difference shall be and they are hereby referred and submitted to the arbitration and determination of ——— of ——— and ——— of ———, nominated by the said parties respectively, and of such third arbitrator as the said ——— and ——— (*first named arbitrators*) shall by writing under their hands, to be endorsed upon this submission before they enter on the business of the reference, nominate and appoint to act with them, so as the said arbitrators (or any two of them) make and publish their award in writing, signed by them, of and concerning the matters referred, ready to be delivered to the parties or either of them, their executors, administrators, or assigns, on or before the ——— day of ———, 19—, or any subsequent day to which the said arbitrators shall from time to time by writing under their hands extend the time for making such award.

1233. SUBMISSION BY BOND.

Know all men by these presents that I, A.B. of ——— am held and firmly bound to C.D. of ——— in the penal sum of ——— dollars, to be paid the said C.D. or his certain attorney, executors, administrators or assigns, for which payment I bind myself, my heirs, executors and administrators, by these presents.

Sealed with my seal and dated the ——— day of ———, 19—.

Whereas (*here state the existence of difference between A.B. and C.D. or numerate special matters in dispute, as in a submission by agreement*).

And whereas the above bounden A.B. and the said C.D. have agreed to refer the said differences (and all matters in difference between them) to the award and determination of W.X. of ——— and Y.Z. of ——— arbitrators nominated, appointed and chosen as well by and on the part and behalf of the above bounden A.B. as of the said C.D. (the said W.X. and Y.Z., having consented and agreed to accept the burden of the said arbitration), and of such third arbitrator as the said W.X. and Y.Z. shall by writing under their hands before they proceed in the arbitration, nominate and appoint to act with them.

Now the condition of this obligation is such that if the above bounden A.B., his heirs, executors and administrators, do and

shall, on his and their part and behalf in all things, well and truly observe, perform and keep the award and determination of the said arbitrators respecting the matters referred, so as the award of the said arbitrators be made in writing ready to be delivered to the said parties (or if the said parties, or either of them, shall be dead before the making of the award, then to their respective personal representatives who shall require the award) on or before the ——— day of ———, 19—, or on or before any other day, not later than the ——— day of ———, 19—, to which the said arbitrators shall, by any writing signed by them endorsed on these presents, enlarge the time for making their said award, then this obligation shall be void; otherwise to remain in full force and virtue.

In witness whereof, &c.

1234. SUBMISSION AFTER ACTION BROUGHT.

In the High Court of Justice.

Between E.F., Plaintiff,

and

A.B. and C.D., Defendants.

Whereas there have been divers dealings and transactions between the above-named E.F. and A.B., before and since the ——— day of ———, on which there was due and owing from the said A.B. to the said E.F. the sum of $———; and there have been also divers dealings and transactions between the said E.F. and the said A.B. and C.D., since the said day of ——— and several questions, disputes, and controversies have arisen, and are subsisting, not only between the said E.F. and the said A.B., but also between the said E.F. and the said A.B. and C.D. And whereas there is now pending in the High Court of Justice an action wherein the said E.F. is plaintiff and the said A.B. and C.D. are defendants; and also an action in the same Court, in which the said A.B. and C.D. are plaintiffs, and the said E.F. is defendant, touching the said dealings and transactions, and the accounts relating thereto, in which last-mentioned action the said E.F. has filed a counter claim against the said A.B. and C.D. Now it is hereby agreed by and among the said E.F., A.B. and C.D. as follows, that is to say:—

1. All questions, disputes, and controversies, in anywise relating to or concerning such dealings or transactions, as well between the said E.F. and the said A.B. as between the said E.F. and the said A.B. and C.D., and the accounts relating thereto shall be referred to the award and determination of (*three arbitrators*) of, &c.

2. The arbitrators are to be at liberty to investigate the whole of the accounts, dealings, and transactions between the parties, and

to award a greater or less sum to be due from the said A.B. and C.D. or either of them jointly or separately, to the said E.F., and to determine the true balances between the said parties, upon the whole of the accounts, dealings and transactions; and to appoint how and in what proportions such balances shall be paid, and by and to whom.

In witness whereof, &c.

Note.—A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in Schedule "A" to the Arbitration Act, 9 Edw. VII. (1909), Ch. 35, Sec. 6.

1235. AFFIDAVIT OF EXECUTION

Of Submission to Arbitration.

1. On the ——— day of ———, 19—, I saw A.B. and C.D. the parties to the paper writing dated the ——— day of ———, 19—, now produced and shown to me, and marked "A," and purporting to be a submission of certain matters to arbitration, duly sign, seal and as their respective acts and deeds deliver, (*or if not under seal say*: duly sign) the said exhibited document.

2. The names or signatures "———" and "———" respectively set and subscribed to the said paper writing are of the proper handwriting of the said A.B. and C.D., respectively.

3. The name or signature of "———" set and subscribed to the attestation of the signatures of the said A.B. and C.D. endorsed on (*or* written under) the said paper writing, is of my proper handwriting.

1236. REVOCATION OF SUBMISSION.

Know all men by these presents, that I ——— of ———, in the County of ———, do hereby revoke, annul, and make void all the powers and authority which by a memorandum of agreement, dated the ——— day of ———, 19—, and expressed to be made between (*parties*) were given to (*arbitrator*) of, &c., and (*arbitrator*) of, &c., the arbitrators thereby nominated and appointed to investigate, award and determine all matters in difference between me and (*other party*) of, &c., concerning the dealings and transactions in the said memorandum of agreement mentioned. And I do further hereby discharge and prohibit the said (*arbitrator*) and (*arbitrator*) or either of them, from making any award, or further proceedings in the matter of the said arbitration. As witness my hand (and seal) this day of ———, 19—.

Witness:

Note.—A submission is irrevocable unless a contrary intention is expressed therein. Arbitration Act, Sec. 5.

1237. NOTICE OF REVOCATION

Of Arbitrator's Authority.

In the matter of an arbitration between A.B. and C.D.

Sir,—I hereby give you notice that by an instrument in writing (under seal) dated the ——— day of ———, 19—, (a copy of which is sent herewith) I have revoked the authority of you (*or* of X.Y.) to determine any differences between me and C.D. (*or* you).

Dated the ——— day of ———, 19—.

To X.Y. (*or* C.D. other party).

1238. REQUEST TO CONCUR IN APPOINTMENT

Of a Single Arbitrator before Proceeding to Appoint One of Two.

Whereas disputes and differences have arisen between you and me within the meaning of clause ——— of an indenture dated the ——— day of ———, 19—, and made between, &c., and I desire to have such differences settled by arbitration in accordance with the provisions of the said clause.

I hereby give you notice that I am willing to concur in the selection of a single arbitrator, and in the event of our failing to agree upon a single arbitrator I shall forthwith proceed to appoint an arbitrator on my behalf in the matter of the said difference.

Dated the ——— day of ———, 19—.

1239. APPOINTMENT OF AN ARBITRATOR

In Pursuance of an Arbitration Clause in Articles of Partnership.

MEMORANDUM.

Whereas by articles of partnership, dated, &c., and made, &c., amongst other things it was agreed that in case any dispute or question should arise between the said parties relative to the construction of the said articles, or to all or any of the matters or things therein contained, the same should be referred to the arbitration of two indifferent persons, one to be named by each of the parties, with power for such arbitrators to appoint an umpire in case of their disagreement; and that the award of the said arbitrators or umpire should be final and conclusive: and whereas disputes have arisen between the said parties relating to their partnership (and also relating to several other matters and things) and they have in pursuance of the said covenant agreed to refer the same accordingly. Now, therefore, I (*partner*) hereby nominate and appoint (*arbitrator*) of, &c., an arbitrator for me and on my behalf, to hear and determine the disputes aforesaid, in accordance with the provisions of the said articles of partnership.

Dated the ——— day of ———, 19—.

1240. NOTICE TO APPOINT AN ARBITRATOR.

In the matter of an Arbitration

Between A.B. and C.D.

Take notice that I, the said A.B., being the owner of ———, hereby appoint W.X. of the said Township of ———, Esquire, as an arbitrator to determine the compensation to which I am entitled for damages, &c. (*or as the case may be*). And I call upon you the said C.D. to appoint an arbitrator on your behalf for the purpose aforesaid.

Dated this ——— day of ———, 19—.

To C.D.

1241. APPOINTMENT OF A THIRD ARBITRATOR

By Two Arbitrators (by Endorsement).

We (*arbitrators*), the arbitrators within named by this memorandum in writing under our hands, made before entering upon the within mentioned arbitration, do hereby nominate and appoint (*third arbitrator*) of, &c., the third arbitrator, to whom, together with ourselves, the within mentioned matters shall be referred, according to the tenor and effect of the within written (bond, *or* obligation, *or* indenture), on condition that he do, within ——— days from the date hereof in writing, consent to act therein accordingly. In witness, &c.

1242. APPOINTMENT OF AN UMPIRE

By Arbitrators. (By Endorsement).

We, the within named (*arbitrators*) do hereby nominate and appoint (*umpire*) of, &c., to be the umpire in the matters within referred, on condition that he do, within ——— days from the date hereof, in writing, accept the umpirage. As witness, &c.

1243. APPOINTMENT OF THIRD ARBITRATOR

In Place of One Who Dies or Refuses to Act.

In the matter of an arbitration between ——— and ———.

Whereas we the undersigned ——— and ——— (*arbitrators*) of ——— duly appointed ——— (*original third arbitrator*) of ——— to be the third arbitrator in the above matter.

And whereas the said ——— has since died (*or* refuses to act, *or*, is incapable of acting).

Now therefore, in pursuance of the provisions of the agreement for submission (*or as the case may be*) under which we are acting, we hereby appoint ——— (*new third arbitrator*) of ——— to be the third arbitrator in the above matter in the place of the said ——— (*original third arbitrator*).

As witness our hands the ——— day of ———, 19—.

1244. NOTICE OF MOTION TO STAY PROCEEDINGS

Pending Arbitration Under a Submission.

Arbitration Act. Sec. 8.

(*Court and Style of Cause.*)

Take notice that an application will be made to ——— in Chambers, etc., on behalf of the above named defendant for an order under the Arbitration Act staying all proceedings in this action.

And in support of such application will be read the agreement signed by the parties hereto to refer disputes and differences to arbitration, and the affidavit of ——— and the exhibits therein referred to.

Dated, etc.

1245. NOTICE OF MOTION TO APPOINT ARBITRATOR OR UMPIRE.

Arbitration Act. Sec. 9.

IN THE HIGH COURT OF JUSTICE.

In the matter of the Arbitration Act, and

In the matter of an arbitration between A.B. and C.D.

Take notice that an application will be made on behalf of the above named A.B. to the presiding Judge in Chambers, at Osgoode Hall in the City of Toronto on ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon or so soon thereafter as the application can be heard for an order appointing an arbitrator (*or* a third arbitrator *or* umpire, *as the case may be*), herein.

And further take notice that in support of the said application will be read the notice given by the said A.B. to the said C.D. to concur in the appointment of a single arbitrator (*or* to appoint an arbitrator, umpire *or* third arbitrator *as the case may be*), and the affidavit of ——— and the exhibits therein referred to.

Dated, etc.

1246. NOTICE TO ARBITRATORS

To Proceed with Reference.

In the matter of an arbitration between ——— and ———.

Take notice that I, the above named (*party giving notice*) hereby call upon you to act in the above matter and proceed in the reference. And further take notice that if for seven days after service upon you of this notice you fail to act I shall treat such failure as a refusal to act in the matter of such reference.

As witness my hand the ——— day of ———, 19—.

To W.X. of ——— and Y.Z. of ——— the arbitrators appointed in the above matter.

1247. APPOINTMENT BY ARBITRATOR

Of Time and Place of Meeting.

In the matter of, &c.

I appoint Monday, the ——— day of ——— next, for proceeding in the above reference, at the hour of ——— in the forenoon, at ———; And I hereby give notice that if either party shall fail to appear before me without having previously given good and sufficient reason for such default, I shall, at the request of the other party, if present, proceed with the reference *ex parte*.

Dated the ——— day of ———, 19—.

1248. OATH

To Be Administered to Witness by Arbitrator.

The evidence you shall give touching the matters in difference between the parties to this reference, shall be the truth, the whole truth and nothing but the truth; so help you God.

1249. AFFIRMATION

To Be Administered by Arbitrator to Witness.

I, A.B., do solemnly, sincerely and truly affirm and declare that I will true answers make to all such questions as shall be asked me touching the matters in difference between the parties to this reference.

1250. NOTICE TO PRODUCE DOCUMENTS.

In the matter of the arbitration between A.B. and C.D.

This is to give you notice to produce before (*arbitrator*) and (*arbitrator*) the arbitrators to whom all matters in difference between the above named parties have been referred, to-morrow at ——— o'clock at ——— Street, all books, deeds, writings, vouchers and other documents whatsoever relating to the matters in difference between the said parties so referred as aforesaid, now in your possession, custody or control, and particularly a certain indenture dated, &c., and made between, &c. (*describe the instrument*).

Dated the ——— day of ———, 19—.

Solicitor for A.B.

1251. NOTICE TO PRODUCE DOCUMENTS.

By an Arbitrator.

In the matter of the arbitration between A.B. and C.D.

To A.B.

Pursuant to the powers given to me by The Arbitration Act, and of every other power me hereunto enabling, I hereby require

you to produce before me on ——— next, at my office ——— Street, the several books of account, deeds, writings and other documents, specified in the schedule hereto annexed, and all other documents relating to the matters referred to me in the above mentioned arbitration.

Dated the ——— day of ———, 19—.

Arbitrator.

SCHEDULE.

1252. NOTICE BY ARBITRATORS TO UMPIRE OF DISAGREEMENT.

In the matter of the arbitration between A.B. and C.D.

To ———, Esquire, Umpire.

This is to give you notice that we are unable to agree with regard to the matters referred to us in the above mentioned arbitration, and that there is no probability of our making any award, and that you are at liberty to proceed as umpire forthwith, to investigate and decide on the said matters.

Dated the ——— day of ———, 19—.

Arbitrators.

1253. ENLARGEMENT OF TIME FOR MAKING AWARD.

By the Parties.

Know all men by these presents, that we, the within-named (*parties*) do hereby give and allow the within named (*arbitrators*) further time for making their award of and concerning the several matters within referred to them, until the ——— day of ——— now next ensuing; and we do hereby declare and agree, that the provisions mentioned in the within written agreement of reference by us touching the matters in difference shall be and shall continue in full force during the enlarged time hereby given for making the same award, as fully and effectually in all respects as if the said enlarged time had been mentioned in the said agreement, instead of the time hereby limited. In witness, &c.

1254. ENLARGEMENT OF TIME FOR MAKING AWARD.

By the Arbitrators.

In the matter of the arbitration between A.B. and C.D.

We, the undersigned, by virtue of the power given to us by an agreement dated, &c., whereby the matters in difference between the above named parties were submitted for arbitration, do hereby enlarge (*or* further enlarge) the time for making our award respect-

ing the said matters, until the ——— day of ——— next, on or before which day our award shall be made and published. As witness our hands this ——— day of ———, 19—.

Arbitrators.

1255. NOTICE OF MOTION TO ENLARGE TIME FOR AWARD

And to Remit Matters Referred to Reconsideration of Arbitrators.

(*Formal Parts.*)

On behalf of the said R.W. that the time limited by the submission to arbitration in this matter for making the award in pursuance thereof may be enlarged to the ——— day of ———, 19—, and that the matters referred be remitted to the arbitrators to supply an accidental omission in one part of their award of the words "taken in due form of law as aforesaid and" and of the word "satisfy," and also for the re-execution of the said award.

1256. SPECIAL CASE FOR OPINION OF THE COURT.

Arbitration Act. Sec. 10.

In the High Court of Justice.

In the matter of the Arbitration Act, and

In the matter of an arbitration between A.B. and C.D.

The following case is stated for the opinion of the Court pursuant to the Arbitration Act by E.F. an arbitrator (*or* umpire) appointed under a submission dated the ——— day of ——— to determine disputes and differences between the parties hereto.

Here state the material facts of the case bearing upon the questions of law to be decided.

The question (*or* questions) for the opinion of the Court is (*or* are):—

(1) Whether, etc.

(2) Whether, etc.

Dated at ——— this ——— day of ———, 19—.

Arbitrator or Umpire.

1257. AWARD OF ONE ARBITRATOR

For Payment of a Sum of Money and for Mutual Releases.

To all to whom these presents shall come, I, (*arbitrator*), of, &c., send greeting. Whereas divers differences and disputes having arisen between A.B. of, &c., and C.D., of, &c., the said A.B. and C.D. by an agreement dated, &c, and made, &c., agreed to refer the same to the award and determination of me the said (*arbitrator*); and did accordingly by their several obligations, bearing date on or about the ——— day of ——— respectively, become bound

each to the other in the penal sum of $——— with conditions thereunder written, to obey and perform my award concerning all the matters in difference; so as the said award should be made in writing and ready to be delivered to the said parties, on or before the ——— day of ——— then next. Now know ye that I the said (*arbitrator*) having taken upon me the said award and arbitrament, and having been attended by the said parties and their respective solicitors, and having heard and considered the allegations and evidences of both the said parties and their witnesses concerning the premises, do hereby award as follows, that is to say:

1. I award and determine that the said C.D. shall pay to the said A.B. on the ——— day of ——— next ensuing, the sum of $———.

2. I further award and determine that upon payment of the said sum of $——— to the said A.B. aforesaid, they the said A.B. and C.D. shall respectively, at the cost of the party requiring the same, make and execute each unto the other of them releases in writing of all actions, causes of action, debts, controversies, claims and demands whatsoever, up to the day of the date of the aforesaid obligations.

3. I further award that the costs of the reference, including the costs of the preparation and execution of the said agreement of reference of this award shall be borne and paid as to one moiety thereof by the said A.B. and as to the other moiety by the said C.D. (*or as the case may be*).

In witness whereof I, the said (*arbitrator*) the arbitrator aforesaid have hereunto set my hand the ——— day of ———, 19—.
Signed and published in the
presence of us

1258. AWARD THAT A PARTNERSHIP BE DISSOLVED

With Consequent Directions.

To all to whom these presents shall come, I (*arbitrator*) of, &c., send greeting. Whereas divers disputes and differences have arisen between A.B. and C.D. with reference to the business carried on by them in partnership under the style or firm of B. & Co., and with reference to their respective rights and liabilities under their articles of partnership, dated, &c. And whereas by an agreement dated, &c., and made, &c., the said A.B. and C.D. agreed to refer all such disputes and differences to me as arbitrator, with power among other things to award that the said partnership should stand dissolved as from any day in the year 19— which I might fix by my award. Now know ye, that I, the said (*arbitrator*) having, &c., do make this my award, in manner following, that is to say:

1. The said partnership shall be deemed to have been determined on, and shall stand dissolved from the ——— day of ———.

2. The said A.B., his executors or administrators, shall and may have, and receive to his or their own use, without the interference of the said C.D. all debts due and owing to the said partnership, from any person whomsoever; and may use the name of the said C.D. in any action or proceeding to be commenced for the recovery of any such debt or demand.

3. The said A.B. shall pay and discharge all debts, demands, and claims whatsoever due by, or which may be made against the said partnership, or the said C.D. in respect thereof: and shall indemnify the said C.D. from all such debts, demands and claims, and from any loss or damage that may be incurred or sustained by the said C.D., by reason of his name being used in any such action or proceeding as aforesaid.

4. The said C.D. shall, upon the request of the said A.B., his executors or administrators, deliver up to him or them all and every the books, papers, and writings which may be in the custody, power or possession of him the said C.D., in anywise relating to the business of the said partnership.

5. The said A.B. shall on the ——— day of ——— next at the house of the said C.D. at ———, aforesaid, pay to the said C.D. the sum of $———, and the said C.D. shall accept the said sum in full satisfaction and discharge of all demands against the said A.B. until the day of the date of the said submission.

6. I further award that the costs of this reference, &c.

In witness, &c.

1259. AWARD OF TWO ARBITRATORS.

(The Third Dissenting.)

To all to whom these presents shall come We, G.H., of, &c., and J.K. of, &c., send greeting. Whereas by an agreement, dated the ——— day of ———, and made between A.B., of &c., of the one part; and C.D. of, &c., of the other part; the said A.B. agreed, etc. And whereas the said agreement, amongst other things provided that any dispute arising between the parties should be referred to the arbitration of two persons, to be appointed by the parties respectively, and of one other person, to be appointed by the two so appointed, the decision of any two to be binding; and that the arbitrators or any two of them, should be at liberty to make one final award, or one or more interim awards, until a final award should be made. And whereas the said E.F. and G.H. appointed J.K., a third arbitrator, in pursuance of the said agreement.

Now, therefore, know ye, that we, the said arbitrators, having taken upon us the burden of the said reference and having called

the parties and their witnesses before us, at all times sitting together, and having heard the evidence, documentary and viva voce, presented to us by the said ——— and ———, and having, at the request of the parties concerned, and accompanied by their respective Counsel on two occasions viewed the land and premises in question, and having heard the arguments of Counsel in reference to the matters so referred to us, and having fully heard and considered the said evidence and arguments of Counsel, and the matters so referred to us, we, the said G.H. and J.K., two of the above named arbitrators, the other arbitrator E.F., dissenting and not joining herein, but being present at the execution hereof, do hereby make and publish our award of and concerning the matters so referred to us.

1260. AFFIDAVIT OF EXECUTION OF AWARD.

In the matter of the arbitration between A.B. and C.D.

I, X.Y., of the ——— of ——— in the County of ———, ———, make oath and say:—

1. I was present on the ——— day of ———, 19—, and saw ——— (*arbitrator*) sign and publish (*or* sign, seal and publish, *as the case may be*) the award in writing hereto annexed.

2. (*Where the time for making the award was enlarged add*): The time for making the said award was on the ——— day of ———, 19—, duly enlarged to the ——— day of ———, 19—, by writing under the hand of the said ——— (*arbitrator*) endorsed on the said bond (*or* other submission, *as the case may be*).

3. The name ——— (*name of arbitrator*) (subscribed to the said award is of the proper handwriting of the said ———) and the name "X.Y." subscribed thereto as a witness attesting the execution of the said award is of the proper handwriting of me this deponent.

4. The said award was made and published on the ——— day of ———, 19—, within (the enlarged), time for making and publishing the same.

1261. NOTICE OF AWARD.

In the matter of an arbitration between A.B. and C.D.

Gentlemen,—I hereby give you notice that I have made and published my award in writing of and concerning the above matter, and that it lies at my office (*or as the case may be*) ready to be delivered. The charges amount to $———.

(*Place and date.*)

To ——— and ———
and to ——— and
——— their solicitor.

Yours truly,
Arbitrator.

1262. NOTICE OF MOTION FOR LEAVE TO ENFORCE AWARD.

IN THE HIGH COURT OF JUSTICE.

In the matter of The Arbitration Act, and
In the matter of Arbitration.
Between A.B. and C.D.

On behalf of, &c., for leave to enforce the award dated ——— in the above matter in the same manner as a judgment or order to the same effect. (*The applicant should produce and verify the original award and a copy thereof, the latter being filed with the affidavits to be used on the motion.*)

1263. NOTICE OF MOTION

To Set Aside an Award.

(*Formal Parts.*)

On behalf of A.B. (*or as the case may be*) that the award dated the ——— day of ———, 19—, of E.F. and G.H., the arbitrators in this matter, may be set aside on the following among other grounds, namely:—(*state them as thus*: (1) That one of the said arbitrators has been guilty of misconduct in (*state the misconduct*). (2) That the said award was improperly procured (*here set forth the facts*).

1264. NOTICE OF APPEAL FROM AN AWARD.

(*Arbitration Act. Sec. 17.*)

IN THE HIGH COURT OF JUSTICE.

In the matter of The Arbitration Act, and
In the matter of an arbitration between A.B. and C.D.

Take notice that the Court will be moved at Osgoode Hall on ——— the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon or so soon thereafter as the motion can be heard on behalf of the said A.B. by way of appeal from an award dated the ——— day of ———, 19—, made by ——— the arbitrator appointed by order dated the ——— day of ———, 19—, (*or as the case may be*) whereby the said A.B. was ordered to pay etc., (*or as the case may be,*) for an order setting aside the said award or so much thereof as relates to, etc., *or* for an order remitting the several matters in disputes to the reconsideration of the said arbitrator, or for such other order as may be just on the following among other grounds:

(1) Etc.

And further take notice that in support of the said motion will be read the evidence of the witnesses examined before the said arbitrator, the exhibits filed upon said arbitration and the affidavits of ——— and ———, and the exhibits therein referred to.

CHAPTER LVI.

PROCEEDINGS BEFORE RAILWAY BOARDS.

1. The Board of Railway Commissioners for Canada.

Railway Act, R.S.C. (1906), Ch. 37.

1265. FARM CROSSING.

The Board of Railway Commissioners for Canada.

Application No. ———. (*This No. is to be filled in by the Secretary on receipt.*)

A.B. of ——— hereby applies to the Board for an order under sections 252-253 of The Railway Act, directing the ——— Railway Company to provide and construct a suitable farm crossing where the Company's railway intersects this farm in Lot No. ——— in the ——— Concession of the Township of ——— in the County of ———, Ontario, and states—

1. That he is the owner of the land, &c.

2. That by reason of the construction of the said railway he is deprived, &c.

3. That it is necessary for the proper enjoyment of his said land, &c.

Dated this ——— day of ———, A.D. 19—.

(Signed A.B.)

1266. INDORSEMENT ON APPLICATION.

The within application is made by A.B. of ——— (*state address and occupation*) *or* by C.D. of ———, his solicitor.

Take notice that the within named Railway Company is required to file with the Board of Railway Commissioners within ten days from the service hereof, its answer to the within application.

1267. FORM OF APPLICATION.

(*Where No Notice Required.*)

The Board of Railway Commissioners for Canada.

Application No. ———.

The ——— Railway Company hereby applies to the Board for an Order under section 167 of The Railway Act, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between ——— and ———, mileage ——— to ——— (*or as the case may be*).

Dated this ——— day of ———, A.D. 19—.

(Signed A.B.)

1268. AFFIDAVIT OF SERVICE.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. ———, of A.B., for an Order under section ——— of The Railway Act, directing ——— Railway Company to provide a farm crossing (*or as the case may be*).

I, ———, of the City of ———, &c., make oath and say:—

1. That I am a member, &c.

2. That I did on ———, 19—, serve the ——— Railway Company above named, with a true copy of the (application) of the said (A.B.) in this matter by delivering the same to (C.D.), the (Secretary) of the said Company, (*or* to E.F., the Assistant to the General Manager) of the Company, being an adult person in the employ of the Company, at the head office of the Company in ———, (*see section 11 (a)*), which said copy was endorsed with the following notice, viz.:—

(*Copy exactly.*)

Note.—No application will be received by the Secretary of the Board unless proof of service on all interested parties entitled to notice, and all necessary plans are furnished with such application.

1269. ANSWER.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the Application, No. ———, of A.B. for an order under section ——— of The Railway Act, directing ——— Railway Company to provide a farm crossing (*or as the case may be*).

The said Company in answer to the said application states:—

1. That the said A.B. is not the owner but merely, &c.

2. That upon the acquisition of the right of way of the said Railway, A.B. was duly paid for and released, &c.

3. That the said A.B. has other safe and convenient means, &c.

4. That, &c.

Dated, &c.

1270. INDORSEMENT ON ANSWER.

The within answer is made by A.B. of ——— (*state address and occupation*) *or* by C.D. of ———, his solicitor.

Take notice that the within named applicant is required to file with the Board of Railway Commissioners within four days from the service hereof, his reply to the within answer.

1271. **REPLY.**

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of A.B. against the ——— Company.

The said A.B., in reply to the answer of the said Company states that:—

1. ———.

2. And the said A.B. admits that ———.

Dated this ——— day of ———, A.D. 19—.

Signed (Q.)

1272. **APPLICATION.**

(*Special Form.*)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. ———.

Whereas the Board, by their Secretary's letter dated ———, 19—, notified the City of Toronto and the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company that there should not be any further considerable delay in settling the plans of the Union Station in Toronto and matters connected therewith, and in settling the question whether railway tracks in Toronto should be raised or depressed in different parts of the city, and whether any or what further bridges should be built for carrying streets over railways along the waterfront in Toronto, or other measures taken for the protection of such crossings, and the same Board required that the Railway Companies interested should submit to the Board, on or before the ——— day of ———, 19—, the plans of the proposed new Union Passenger Station in Toronto, and that the said Railway Companies and the City of Toronto, or either of them, should on or before the said date submit to the Board any proposition that they, or any of them, might desire to make on the above subject.

And whereas the Corporation of the City of Toronto, by Report No. ——— of their Board of Control, adopted by the Council on the ——— day of ———, 19—.(a copy of which report is filed with the Board), set forth the views of the said Council upon the above subjects.

And whereas the Board met on ——— and ———, 19—, and subsequently on ——— day of ———, 19—, and prior to the said last mentioned dates, the said Corporation filed with the Board plans for the elevation of the tracks of the said railways on the Esplanade, as a suggestion for carrying out the objects above set forth.

And whereas upon the ——— day of ———, 19—, the Board directed the said Corporation of the City of Toronto to file a formal application herein.

And whereas on account of the congested state of travel upon the streets hereinafter named and the danger arising from crossing the tracks of the said Companies upon the level of the said streets it is necessary for the protection, safety and convenience of the public that there should be a separation of grades of the tracks of the said railways and of the said streets between ——— Street and a point north of ——— Street in the said city on the Grand Trunk Railway and between ——— Street and a point north of ——— Avenue on the tracks of the Canadian Pacific Railway Company.

Therefore the Corporation of the City of Toronto hereby apply to the Board for an order under section 237 and 238 of the Railway Act of 1906 directing the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, or one or other of them to carry the following streets under their tracks, namely: ——— Street and ——— Street, and directing the crossing of ——— Street over the railway tracks to be closed and directing the Grand Trunk Railway Company to also carry ——— Avenue and ——— Street under its said tracks, and directing the Canadian Pacific Railway Company to carry ——— Street and ——— Street under its said tracks, and to carry the street over its railway at ——— Avenue, and directing said railways for such purpose to raise their said tracks to such level as may be necessary and as may be determined by the Board, and directing the said railways also to change or raise as much as may be necessary the bridges over their said tracks at ——— Street and ——— Street, and directing the said railways to make such provision for loading and unloading from and to their said railways as may be deemed safe, necessary and convenient therefor; and to make such provisions for approaching the same by ramps or other structures as may be thought proper, and to do such other works as may be suggested by the plan filed on behalf of the said city, or as may appear necessary and proper for the said purposes of the Board.

Dated this ——— day of ———, A.D. 19—.

Solicitor for the Corporation of the City of Toronto.

1273. ANSWER TO FOREGOING APPLICATION.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Answer of the Canadian Pacific Railway Company to Application No. ———, filed by and on behalf of the Municipal Corporation of the City of Toronto.

1. The Canadian Pacific Railway Company submits that Section 237 and 238 of the Railway Act, being the sections upon which the said application purports to be based, do not nor does either of them confer upon the Board of Railway Commissioners any jurisdiction or authority to make the direction for which the said City of Toronto applies by its said application.

2. The said Canadian Pacific Railway Company further submits that the position and situation of its rails and tracks south of——— at grade are secured by various agreements, grants and Acts of Parliament, and that without the express authority of Parliament the Canadian Pacific Railway Company's rights in regard thereto and the maintenance thereof cannot lawfully be taken away or interfered with.

3. The said Canadian Pacific Railway Company further submits that the said application on the part of the City is in direct contradiction and derogation of agreements as heretofore passed and made by the said City of Toronto for valuable consideration passing from the said Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada, or one of them, to the said City, and sanctioned and confirmed by legislation, and therefore the said application ought not to be entertained, and the Board of Railway Commissioners ought not to assume any jurisdiction or authority in the premises.

4. The Canadian Pacific Railway Company further say that none of the streets mentioned in the said application, namely, the streets from ——— Street to ——— Street, both inclusive, cross the tracks of the said Canadian Pacific Railway Company upon the level as alleged by the City in the said application, but that all the said streets terminate before reaching the said tracks or that portions thereof have been closed and conveyed to the Grand Trunk Railway Company and that the Board has no authority or jurisdiction to make the order applied for.

5. And the said Canadian Pacific Railway Company respectfully reserves the right hereafter, should it become necessary to plead a further reply, raising such economic, engineering, and other objections to the scheme which is proposed by the said application as the said Company may be advised.

Dated at Toronto this ——— day of ———, 19—.

Solicitor for the Canadian Pacific Railway Company.

1274. ORDER APPROVING DEVIATION.

Order No. ———. File No. ———.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

——— day the ——— day of ———, A.D. 19—.

In the matter of the application of the ——— Railway Company, hereinafter called "Applicant Company," under Section 167 of the Railway Act, for approval of a deviation in the location of a portion of its line of railway from ——— as shown on the plan, profile, and book of reference on file with the Board under file No. ———.

Upon the report of an Engineer of the Board approving of the said plan, profile, and book of reference,

It is ordered that the deviation in the location of the said portion of the Applicant Company's line of railway as shown on the plan, profile, and book of reference on file with the Board under the said file No. ———, be, and the same is hereby, approved and sanctioned.

Chief Commissioner.

1275. ORDER APPROVING OF PLANS, &c.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

——— day the ——— day of ———, A.D. 19—.

In the matter of the application of the ——— Railway Company, hereinafter called the "Applicant Company," under Section 222 of the Railway Act, for authority to construct, maintain, and operate a branch line of Railway, or spur, commencing at ——— as shown on the plan, profile, and book of reference on file with the Board under file No. ———, deposited in the ———.

Upon the report of an Engineer of the Board approving of the said plan, profile, and book of reference—

It is ordered that the Applicant Company be, and it is hereby, authorized to construct, maintain, and operate the said branch line of railway, or spur, as shown on the plan, profile, and book of reference on file with the Board under the said file No. ———.

And it is further ordered that the Applicant Company construct and complete such branch line within two years from the date of this order.

Chief Commissioner.

1276. ORDER APPROVING OF LOCATION OF LINE.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

——— day the ——— day of ———, 19—.

In the matter of the application of the Grand Trunk Pacific Railway Company, hereinafter called the applicant company under section 159 of the Railway Act, for approval of the location of its line of railway through the City of ———, in the Province of Ontario, as shown on the plan, profile and book of reference on file with the Board under file No. ———.

Upon the hearing of counsel for the applicant company and the Canadian Pacific Railway Company; and upon the consent of the City of ———, by agreement dated ———, 19—, and of the Canadian Pacific Railway Company, by agreement dated ———, 19—, copies of which are on file with the Board; and upon the report of the chief engineer of the Board:

It is ordered that, subject to the terms and conditions contained in the said agreements, and subject to the condition that the

applicant company shall do as little damage as possible and make full compensation to all persons interested for all damage by them sustained by reason of the location of the said railway along any street in the said City of ———, as provided in the said agreement of ———, 19—, the location of the applicant company's line of railway through the City of ———, as shown upon the plan filed with the Board on the ——— day of ———, 19—, be, and the same is hereby approved.

Provided that this order shall not prejudice the rights, if any, for the reimbursement of the amount of the said damage, if any, which the applicant company may have against the City of ——— under the said agreement of ———, 19—, nor shall it prejudice the right, if any, which the Canadian Pacific Railway Company may have under the said agreement between that company and the applicant company, to be relieved of the payment of any portion of the compensation required to be paid persons interested for damages sustained by reasons of the location of the said railway along the said streets, in the City of ———, as hereinbefore provided.

And it is further ordered that the orders of the Board, Nos. ——— and ———, dated respectively ——— and ———, 19—, be, and the same are hereby rescinded.

Chief Commissioner,
Board of Railway Commissioners for Canada.

1277. NOTICE OF APPLICATION

For Leave to Appeal to the Supreme Court.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. ———, of A.B., for an order under section ——— of the Railway Act, authorizing the ——— Railway, &c., &c.

To the Board of Railway Commissioners, and

To the above named Applicant (*or* Respondent, *as the case may be*).

Take notice that the ——— Company will apply to the Board on the ——— day of ——— (*not exceeding 14 days from the date of order*), for leave to appeal to the Supreme Court of Canada from the Order of the Board, dated the ——— day of ———, in the matter of the above application authorizing the expropriation of certain lands referred to in said Order, and directing that compensation or damages to be awarded to the owners of said lands, or persons interested therein, shall be ascertained as and from the date of the application (*or such other time as may be named in the Order*) (*or as the case may be*).

The grounds of appeal are that as a matter of law, the awarding of such compensation or damages should be ascertained or

determined from the date of the deposit of plan, profile, &c., as provided under section 192 of the Act, and not from the time stated in the Order (*or as the case may be*).

Dated this ——— day of

1278. ORDER GRANTING LEAVE TO APPEAL.

IN THE SUPREME COURT OF CANADA.

Honourable Mr. Justice ——— In Chambers.) ——— day the ——— day of ———, A.D. 19—.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of the City of Toronto, hereinafter called the "City," for an Order directing the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, hereinafter called the "Railway Companies," to carry York Street and certain other streets in the said City under the tracks of the said Railway Companies (*or as the case may be*).

Upon motion made pursuant to sub-section ——— of section 56 of the Railway Act, by the Railway Companies on ———, 19—, for leave to appeal to the Supreme Court of Canada, upon the question of the jurisdiction of the Board of Railway Commissioners over the subject matter of the said application of the City, the disposition of the said motion being reserved pending a further hearing of the case before the said Board, and the said Board having now issued its order disposing of the said application, dated ———, 19—, and this motion coming on again for hearing in presence of counsel for all parties and upon notice to the said Board.

It is ordered that the said Railway Companies do have leave to appeal to the Supreme Court of Canada upon all questions of jurisdiction involved in the making of the said Order of ———, 19—, pursuant to the said Act, and that such appeal be set down for the next ensuing sittings of the Supreme Court.

And it is further ordered that the said Railway Companies, do on or before the ——— day of ———, 19—, furnish to the solicitor for the City a memorandum setting forth the questions of jurisdiction proposed to be raised in the said appeal to enable the said solicitor to prepare his factum.

1279. ORDER OF BOARD GRANTING LEAVE TO APPEAL.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

———day, the ——— day of ——— A.D. 19—.

———, Chief Commissioner.
———, Assistant Chief Commissioner.
———, Commissioner.

In the matter of the application of ———, hereinafter called the ———, for an Order directing the ——— Railway Company ———, hereinafter called the ——— Company, &c.

Upon the application of counsel for the Railway Company in the presence of counsel for the ———.

It is ordered that the Railway Company do have leave to appeal from the Order of the Board made in this matter dated ———, 19—, to the Supreme Court of Canada, upon all questions of law involved in the making of said Order as provided by sub-section 3 of section 56 of the Railway Act, and that such appeal be set down for the next ensuing sittings of the Supreme Court.

It is further ordered that the said Railway Company do, on or before the ——— day of ———, 19—, furnish to the solicitor for the ——— a memorandum setting forth the questions of law proposed to be raised in the said appeal to enable the said solicitor to prepare his factum.

Chief Commissioner.

II. The Ontario Railway and Municipal Board.

The Ontario Railway and Municipal Board Act, 6 Edw. VII. (1906), Ch. 31.

1280. NOTICE OF APPLICATION.

The Ontario Railway and Municipal Board.

Between ———, Applicant,

and

———, Respondent.

Notice of Application.

1. The Applicant is (*here give a general description of the applicant*).

2. The Respondent is (*here give a general description of the respondent*).

3. (*Here follows the complaint or application*).

4. (*Here follows the nature of the relief or remedy sought*).

5. This application will be heard by the Board after ten days from the service hereof, at such time and place and in such manner as the Board may order and direct.

6. This notice is given by ——— of the ———, in the County of ———, Solicitor for the Applicant (*or* this notice is given by ——— of the ———, the applicant in person).

Signature: Solicitor's or Applicant's.

1281. APPLICATION WHERE NO NOTICE REQUIRED.

The Ontario Railway and Municipal Board.

In the matter of the Application of ———, of the ———, of ———, for an order for ———.

The Applicant hereby applies to the Board for an order for (*here set forth the nature of the application and order asked for*).

This application is made by ———, of the ———, of ———, in the County of ———, Solicitor for the Applicant (*or* this application is made by the Applicant in person).

(*Signature of Solicitor or Applicant.*)

1282. REPLY.

(*Formal Parts.*)

1. The reply of the above named Respondent to the notice of application of the above named Applicant.

2. The Respondent admits paragraphs numbered one, two or three (*as the case may be*) of the notice.

3. The Respondent says that (*here set forth reply*).

4. The Respondent says that the Applicant is not entitled to the relief or remedy sought (*or* he is only entitled to the following relief or remedy, *as the case may be*).

5. This reply is made by ——— of ———, Solicitor for the above named Respondent (*or* this reply is made by ——— of——— the Respondent in person).

Signature of Solicitor or Respondent, as the case may be.

1283. NOTICE OF APPLICATION—STREET RAILWAY.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

Between The ——— Railway Company, Applicant,

and

The Corporation of the City of ———, Respondent.

1. The applicant is a street railway company carrying on business and having its head office in the City of ———. The respondent is a municipal corporation.

2. Under and by virtue of an agreement dated the ——— day of ———, 19—, made between the respondent and ——— and others, which agreement is validated by Statute, ——— Vict., cap. ———, the applicant is entitled to construct and operate tracks for the purposes of its railway upon any and all streets in the City of ———.

3. In pursuance of their rights in that behalf, the applicant notified the City of ——— of their intention to construct their railway upon the following streets, namely: ———, in the said City, and thereafter, as required by the said agreement, duly prepared plans of such railways, showing the character of construction and location of the tracks, and submitted the same in due course to the City Engineer for his approval.

4. The said plans were prepared exactly in accordance with the plans of other portions of the railway of the applicant constructed on other streets of the City with the approval of the City Engineer, and no reasonable objection can be taken thereto.

5. The City Engineer has not approved the said plans, but has not stated any valid reasons for refusing to approve thereof, the only reason given being that the Council of the Corporation does not wish tracks to be laid except on conditions which they have no right to impose upon the applicant.

6. If any reasonable objection to the said plans can be pointed out, the applicant is willing to amend the same, but submits that it is the duty of the City Engineer to approve thereof, because the said plans, as above stated, are identical with those which he has approved upon other streets.

7. The applicant now submits its rights to this Honourable Board, praying for an order that the City Engineer may be required to state whether he has any reasonable or valid objection to the said plans, and if no such objection can be made, that the same be ordered to be taken as approved, and praying further that the respondent, their servants, workmen and agents be restrained and enjoined from interfering with the construction of the railway of the applicant in accordance with the said plans, and that such other order may be made in reference to the construction of the said railway as to the Board may seem proper in accordance with the provisions of the said agreement.

This application will be heard by the Board after 10 days from the service hereof or earlier as the Board may appoint, at such time and place and in such manner as the Board may order and direct.

Dated the ——— day of ———, 19—.

This notice is given by ———, of the City of ———, in the County of ———, Solicitors for the applicant.

1284. REPLY TO FOREGOING.

1. The respondent denies the right of the applicant to construct their railway upon any street in the City of ——— unless such street be recommended by the City Engineer and approved by the City Council as provided by the agreement referred to in the second paragraph of the applicant's application.

2. Under the terms of the said agreement all new lines of railway must be recommended by the City Engineer, who is in this respect an independent party, and has to exercise his own discretion as to the street or streets upon which a railway line is necessary, and neither the Board nor the City can control his discretion.

3. No recommendation by the Engineer of any of the streets mentioned on the applicant's application, and no approval by the City Council has been made.

4. The respondent denies the right of the Board to hear or adjudicate upon this application without the City Engineer being a party.

5. Paragraph ——— of the said agreement provides as follows: ——— and the respondent denies the jurisdiction of the Board to hear or entertain this application.

6. The construction of railway tracks and the operation of a service of cars upon the streets referred to in the applicant's application are not necessary, and by a rearrangement of routes any congestion there may be on any of the streets may be so relieved that the existing tracks upon the streets will be ample for some years.

7. The respondent has requested the applicant to establish and lay down a double line of tracks on certain streets from the junction of ——— and ——— Streets by way of ——— and ——— Streets to ——— Street, as set forth in By-law No. ———, passed ———, 19—, but the applicant has neglected and refused to comply therewith and by so doing has abandoned all rights upon the said streets and any part thereof.

8. The applicant can so operate their routes on the lines already laid as to relieve the congestion now existing, and to obviate any necessity for new lines.

9. This reply is made by ———, of ———, Solicitor for the above named respondent.

Solicitor for Respondent.

1285. ORDER FOR PRODUCTION.

(*Formal Parts.*)

Upon the application of the ——— it is ordered, that the ——— do, within ten days after the service of this order, make discovery on oath of the documents which are or have been ——— possession or power relating to the matters in question in this application and do produce to and deposit the same with the Secretary of the Board at Toronto for the usual purposes.

Dated this ——— day of ———, A.D. 19—.

1286. AFFIDAVIT AS TO PRODUCTION OF DOCUMENTS.

(*Formal Parts.*)

(*The schedule to be divided into two parts when the deponent objects to the production of any of the documents.*)

I, ———, the above named ———, make oath and say as follows:

(*The first part is to contain the documents in the deponent's possession to the production of which he does not object.*)

1. I have in my possession or power the documents relating to the matters in question in this application set forth in the first and second parts of the First Schedule hereto.

(*The second part is to contain the documents, if any, in the deponent's possession to the production of which he does object.*)

2. I object to produce the said documents set forth in the second part of the First Schedule hereto.

3. That (*here state upon what ground the objection is made, and verify the fact as far as may be*).

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this application set forth in the Second Schedule hereto.

5. The last mentioned documents were last in my possession or power on (*state when*).

6. That (*here state what has become of last mentioned documents and in whose possession they are now*).

(*If the party denies having any, he is to make an affidavit in form of the 7th paragraph, omitting the exception.*)

7. According to the best of my knowledge, information and belief, I have not now and never had in my possession, custody or power, or in the possession, custody or power of any other person or persons on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this application, or any of them, or wherein any entry has been made relative to such matters or any of them, other than and except the documents set forth in the said First and Second Schedules hereto, and the pleadings and other proceedings in the application.

The First Schedule Hereto.

The first part thereof: Showing documents in my possession which I do not object to produce.

The second part: Showing documents in my possession which I object to produce.

The Second Schedule Hereto.

Showing documents which I have had, but have not now, in my possession or power.

1287. ORDER FOR EXAMINATION FOR DISCOVERY.

(*Formal Parts.*)

Upon the application of the ———, it is ordered that the above named ——— do attend before ——— at such time and place as he shall by writing hereon endorsed appoint and submit to be examined *viva voce* upon oath touching his knowledge of the matters in question in the application. And the costs of this order and the costs of such examination are reserved.

Dated this ——— day of ———, A.D. 19—.

1288. APPOINTMENT.

(*Indorsed.*)

Pursuant to the within order, ——— do hereby appoint ——— the ——— day of ———, A.D. 19—, at the hour of ——— o'clock in the ———noon, at ——— for the examination of the within named.

Dated this ——— day of ———, A.D. 19—.

1289. NOTICE TO PRODUCE.

(*Formal Parts.*)

Take notice that you are hereby required to produce and show to the Board at the hearing of this application all books, papers, letters, copies of letters and other writings and documents in your custody, possession or power containing any entry, memorandum or minute relating to the matters in question in this application and particularly those hereinafter specified.

Dated this ——— day of ———, A.D. 19—.

To the above named

(*Solicitor or Agent.*)

Solicitor for the above named——.

Description of Documents.	Dates.

1290. NOTICE TO ADMIT.

(*Formal Parts.*)

Take notice that the ——— purpose to adduce in evidence the several documents hereinunder specified, and that the same may be inspected by the ——— himself, his Solicitor ——— or Agent ———, at ——— on ——— day, the ——— day of ———, between the hours of ——— and ——— in the ———noon, and the ——— is hereby required, within four days from the said day to admit that such of the said documents as are specified to be originals were respectively written, signed or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and that such documents as are stated to have been served

were served or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence on this application.

Dated this ——— day of ———, A.D. 19—.

To the above named

Yours, etc.

(*Solicitor or Agent.*)

His Solicitor or Agent.

(*Description of Documents.*)

1291. SUBPŒNA.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

Between ———, Applicant,

and

———, Respondent.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India,

To ——— Greeting.

We command you to attend before the Board at ———, on ——— day, the ——— day of ———, A.D. 19—, at the hour of ——— o'clock in the ———noon, and so on from day to day until the above matter is heard, to give evidence on behalf of ———, and also to bring with you and produce at the time and place aforesaid all ———.

Witness, ———, Esquire, Chairman of our said Board, the day of ———, A.D. 19—, in the ——— year of our Reign.

(*To be endorsed*) O.R. & M.B. ——— vs ———.

This Writ is issued by ——— of the ——— of ———, in the County of ———, Solicitor for the ——— (*or* by the ——— in person).

Issued from the office of The Ontario Railway and Municipal Board at the City of Toronto, in the County of York and the Province of Ontario.

Secretary.

1292. FINAL ORDER.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

The ——— day of ———, A.D. 19—.

Before ———, Esquire, ———, Chairman; ———, Esquire, Vice-Chairman; ———, Esquire, Member.

Between ———, Applicant,

and

———, Respondent.

Upon the application of the above named Applicant in presence of the Applicant and Respondent upon hearing the evidence adduced on behalf of the Applicant and Respondent and upon hearing counsel for the Applicant and Respondent (*or* upon hearing the Applicant and Respondent in person, *as the case may be*).

The Board orders (*here set forth what the Board orders*).

1293. NOTICE OF MOTION.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

Between A.B., Applicant,

and

C.D., Respondent.

Take notice that an application will be made, by special leave, on behalf of ——— before The Ontario Railway and Municipal Board, at their offices in the Parliament Buildings, in the City of Toronto, on ——— day, the ——— day of ———, 19—, at the hour of eleven o'clock in the forenoon, or so soon thereafter as the same can be heard, for an order directing the Sheriff of the District of ——— to place the applicants, ———, in possession of (*or as the case may be*) and for the costs of this application and such other Order as the Board may deem just.

And further take notice that in support of such application will be read the affidavit of ———, and the exhibits therein referred to.

Dated at ——— this ——— day of ———, 19—.

E.F., Solicitor for ———.

1294. ORDER FOR POSSESSION.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

(*Formal Parts.*)

Upon reading the Notice of Motion herein, dated the ——— day of ———, 19—, on behalf of the above named Applicants, and upon reading the affidavit of ——— and the Exhibits and papers therein referred to, and the affidavits, evidence and papers filed and used before this Board, and upon hearing Counsel on behalf of the Applicants and the Respondents.

1. It is ordered that the Sheriff of the District of ——— do and he is hereby commanded to enter and without delay cause the said ——— to have possession of the said railway and its appurtenances and the real and personal property used in connection therewith and appertaining thereto, together with its books and offices, and that he defend and keep them and their assigns in peaceable and quiet possession when and as often as an interruption may or shall, from time to time, be given or offered to them or any of them.

2. And it is further ordered that the costs of this application, together with the costs of the application for delivery up of possession be reserved.

3. And it is further ordered that the Respondents do pay the Sheriff his costs of putting the Applicants in possession of the said railway.

4. The Board reserves further directions.

5. The Board orders that ——— dollars in stamps shall be affixed on this order.

Chairman.

1295. JUDGMENT OF BOARD.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

Before—

———, Esq., Chairman.
———, Esq., Vice-Chairman.
———, Esq., Member.

———day, the ——— day of ———, 19—.

Between The ——— Railway Company, Applicant, and The Corporation of the City of ———, Respondent.

Upon the application of the above-named Applicant, in presence of the Applicant and Respondent, upon hearing the evidence adduced on behalf of the Applicant and Respondent, and upon hearing counsel for the Applicant and Respondent.

1. The Board finds and declares that the Applicant has the right to construct its railway upon ——— Street from ——— Street to ——— Street; upon ——— Street, from ——— Street to ———, &c., all of the said streets being within the boundaries of the City of ——— as constituted at the date of the agreement between the Applicant and the Respondent, dated ———.

2. And the Board further finds that the Respondent has denied the right of the Applicant hereinbefore declared, and has prevented the Applicant from constructing their railway upon the said streets, and has thereby committed a breach of the said agreement.

3. And the Board orders that the Respondent, its officers, servants and agents, refrain, and they are hereby enjoined from doing any acts to prevent the Applicant from constructing lines of railway upon the said streets as set forth on the plans filed as exhibits at the trial hereof.

4. And the Board further orders that the Respondent pay the sum of ——— dollars for stamps required for this order, and makes no further order as to costs.

[Seal]

Chairman.

1296. ORDER GRANTING LEAVE TO APPEAL

From Board.

IN THE COURT OF APPEAL FOR ONTARIO.

———day, the ——— day of ———, 19—.

Present—

The Honorable The Chief Justice of Ontario.
The Honorable Mr. Justice ———.
The Honorable Mr. Justice ———.
The Honorable Mr. Justice ———.
The Honorable Mr. Justice ———.

In the matter of an application before the Ontario Railway and Municipal Board.

Between The ——— Railway Company, (Respondent) Applicant, and The Corporation of the City of ———, (Appellant) Respondent.

Upon motion made this day unto this Honorable Court on behalf of the above-named Appellant, upon reading the Notice of Motion, the affidavit of ———, filed, and the exhibits therein referred to, the evidence, pleadings and proceedings before the said Board, and the reasons for judgment of the said Board, and upon hearing counsel as well for the Appellant as the Respondent, and the Appellant undertaking to expedite the appeal,

It was ordered that the Appellant be at liberty to appeal from the decision or order of the said Board pronounced on the ——— day of ———, 19—, to this Court, and that the costs of this application be costs in the cause.

1297. AWARD.

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

In the matter of the Arbitration

Between The Corporation of the City of ———, and The Corporation of the City of ———.

Know all men by these presents that whereas, &c.

And whereas, &c.

Now therefore know ye that we, the undersigned, ——— and ———, constituting and composing the Ontario Railway and Municipal Board, having taken upon ourselves as such Board the burden of the said reference, arbitration and award, and having been attended by Counsel for both parties and their witnesses, and having heard and considered the allegations and evidence of the said respective parties, and having viewed, at the request of both parties, the roadbeds, rails, plant, overhead construction, rolling stock and accessories appurtenant thereto, and the land used in connection with the railway, make and publish this our award in writing of and concerning the said matters so referred to us in the manner following, that is to say:—

We, the said Board, find, award and adjudge, &c.

And we, the said Board, further award and adjudge that, &c.

In witness whereof, we have hereunto set our hands and seals this ——— day of ———, A.D. 19—.

Signed, sealed and delivered in the presence of:—

Chairman.
Vice-Chairman.
Member.

CHAPTER LVII.

PROCEEDINGS BEFORE THE DRAINAGE REFEREE.

Municipal Drainage Act, 10 Edw. VII. (1910), Ch. 90.

1298. NOTICE OF APPEAL FROM REPORT.

Section 67.

IN THE HIGH COURT OF JUSTICE.

In the matter of The Municipal Drainage Act.

And in the matter of the Report of ———, dated the ——— day of ———, A.D. 19—, relating to the ——— drainage works in the Townships of ——— and ——— in the County of ———.

Between The Municipal Corporation of the Township of ———, Plaintiffs, and The Municipal Corporation of the Township of ———, Defendants.

Take notice that the Municipal Corporation of the Township of ———, hereby appeals to the Referee under the Drainage Laws from the above mentioned Report of ——— Engineer and from the plans and specifications, assessments and estimates accompanying the same, upon the following (amongst other) grounds.

(*Here set forth the grounds in numbered paragraphs as for example:*)

(a) *Where the assessment against the appealing municipality exceeds $1,000 or exceeds the estimated cost of the work in the initiating municipality,—*

1. That the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated.

2. That such scheme does not provide for a sufficient outlet.

3. That the course of the drainage work, (*or* any part thereof,) should be altered.

4. That the drainage work should be carried to an outlet in the initiating municipality *or* elsewhere.

(b) *In any case not otherwise provided for.*

1. That a petition has been received by the council of the appealing municipality, as provided by section 3 of this Act, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition.

2. That such appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality.

3. That the initiating municipality should not be permitted to do the work within the limits of the appealing municipality.

4. That the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive.

Dated at ——— the ——— day of ———, 19—.

To the Municipal Corporation
of the Township of ———.

A.B.,
Reeve of ———.

1299. NOTICE OF APPEAL FROM BY-LAW.

Secs. 94 and 98.

In the High Court of Justice.

In the matter of the Municipal Drainage Act.

And in the matter of the By-law of the Corporation of the Township of ——— provisionally adopted on the ——— day of ———, 19—, entitled "The ——— By-law."

Between The Corporation of the Township of ———, Plaintiffs, and The Corporation of the Township of ———, Defendants.

Notice is hereby given that the Corporation of the Township of ——— hereby appeals to the referee under The Municipal Drainage Act from the above-mentioned by-law of the Corporation of the Township of ——— upon the following grounds:—

(*Here set forth the grounds of appeal in numbered paragraphs as thus:*)

1. No copy of said by-law or of the report, plans, specifications, assessments and estimates of the engineer on the proposed work referred to in said by-law has been served upon the head of the Township of ——— as required by the Statute in that behalf.

2.

3.

4. &c.

Delivered the ——— day of ———, 19—, by ——— of the City of ——— in the County of ———, solicitor for the said plaintiffs.

1300. NOTICE OF APPEAL TO REFEREE FROM REPORT.

(*Formal Parts.*)

1. No copy of the report, plans, profiles, specifications, assessments and estimates of the engineer on the proposed work has been served upon the head of the Township of ——— as required by the Statute in that behalf.

2. No certified copy of the by-law of the Township of ——— for undertaking the said work, as the same is provisionally adopted, reciting the description, extent and estimated cost of the work to be done and the amount to be contributed by each municipality affected by the drainage work, has been served upon the head of the Township of ———.

3. No notice of the filing of said report, showing the name of the drainage work, its estimated cost, the owners of lands and their assessment, distinguishing benefit, outlet liability and injuring liability, and no notice of the date of the ——— Township Council meeting at which the report would be read and considered, were mailed by the Clerk of the said Township of ——— to the parties assessed as required by law, and no opportunity was given said parties assessed to attend a meeting of said Council pursuant to such notice and state their objections to said report for the consideration of said Council before the adoption by the said Council of the said report.

4. No notice of the assessment and of the amount thereof was given by the Clerk of the Municipality of ——— to the parties assessed forthwith after the filing of the said report with the said Clerk.

5. The said engineer before entering upon the work of preparing the said report did not take and subscribe the oath in such cases required to be taken by the Statute.

6. The said engineer in fixing the sum to be assessed upon the lands and roads in the Township of ——— did not take into consideration any prior assessments on the same lands and roads for drainage works and repairs, nor make allowance therefor, and has not stated the allowance made in his report.

7. The said report and the assessment thereunder are not legible or intelligible, and it is impossible to ascertain therefrom the amount and particulars of the assessment against lands and roads in the Township of ———, and no sufficient report, assessment and by-law have been served.

8. The said assessment against lands and roads in the Township of ——— amounting to $——— is unjust, excessive and not authorized by law.

9. The work provided for by the said report, plans, estimates, specifications and assessment is unnecessary so far as the Township of ——— or the lands or roads therein are concerned.

10. The said report is not founded or based upon any petition of the majority in number of the resident and non-resident persons

shown by the last revised assessment roll to be the owners of lands to be benefited, as required by law.

11. The said report and assessment do not show in what respect the lands and roads therein mentioned are assessed, whether for benefit, outlet liability or injuring liability, as required by law.

12. The said report and assessment do not contain any proper descriptions of the lands and roads pretended to be assessed, and no proper or sufficient assessment of such lands and roads is made.

13. The said report and assessment omit lands and roads in the Township of ——— that ought to be assessed, and pretend to assess lands and roads in the Township of ——— that ought not to be assessed, and there is no proper or sufficient assessment of lands and roads in either township.

14. The said proposed work will confer no benefit upon lands and roads in the Township of ——— and such lands and roads ought not to be assessed.

15. The lands and roads proposed to be assessed in the Township of ——— do not use the existing work, and will not be able to use the proposed work, for drainage purposes, and the only benefit conferred on said lands and roads by the work now existing (if any) was and is by way of cut-off for which the Township of ——— has already been assessed and has paid $———, and the said work as now existing furnishes ample and sufficient cut-off for all lands and roads in the Township of ——— proposed to be assessed, and the proposed work will form no better or more efficient cut-off than now exists and which has already been paid for by the Township of ——— to the Township of ——— in the assessment for the present work.

16. The said report and assessment pretend to assess lands in the Township of ——— that are below the level of Lake ——— and continuously covered with water and which are therefore not assessable.

17. The said report, plans, profiles, specifications and estimates contain no estimate of the land required to be expropriated for the purpose of the said drainage work, and make no provision for expropriating land for such purpose, although it is evident that land will be required to be expropriated.

18. The said report, plans, profiles, estimates, specifications and assessment propose to assess, as part of the costs of the drainage work, the cost of many more bridges and culverts than are rendered necessary by the drainage work proposed.

19. The said ——— Drain as it now exists is for the greater part of its course a large deep drain on the side of the highway, which is now graded up as high as is consistent with its safety for travel, and the effect of a work such as is proposed would be to render the highway too dangerous for public travel unless a guard, railing or other protection should be placed between the ditch and the waggon way, and no provision is made by said report, plans and specifica-

tions for such protection; and it is unreasonable and unjust to impose a liability on the Township of ——— such as would be imposed should said highway be put in the condition proposed by said report, plans and specifications.

20. The said proposed work is not necessary for the maintaining of the said highway known as the ———, nor for the purpose of any of the highways or lands assessed in the Township of ———, and the proper proceedings to repair said highway are under the provisions of The Municipal Act and not under The Municipal Drainage Act.

21. The councils having jurisdiction over said highway have not passed any resolutions or given any authority to spread the earth or interfere with the highway as proposed.

22. The said report, plans, profiles, specifications, estimates and assessment improperly and illegally pretend to provide for future repairs and maintenance of the said proposed work.

23. The Council and Corporation of the Township of ——— on their part have not passed any by-law for the appointment of the engineer, nor for the adoption of the proposed work, and have not bound themselves to do the proposed work.

24. And upon the further grounds disclosed in the said report, plans, profiles, specifications, estimates and assessments.

Dated at ——— this ——— day of ———, 19—.

Solicitors for the Township of ———.

To the Reeve of ———.

1301. ORDER REFERRING ACTION TO REFEREE.

Municipal Drainage Act, Sec. 99.

(Court and Style of Cause.)

Upon the application of the above named defendants, in presence of counsel for the plaintiff, upon hearing read the pleadings herein and the affidavit of ——— filed, and upon hearing what was alleged by counsel for the defendants and the plaintiff, and it appearing that this action may be more conveniently tried and disposed of by the Referee hereinafter mentioned;

1. It is ordered that this action be and the same is hereby referred to ———, Esquire, Referee under the drainage laws.

2. It is further ordered that such examinations for discovery of the parties hereto as have already been had and taken and the depositions taken thereon, and such examinations for discovery as are now pending, may be used before the said Referee in the same manner and to the same extent as the same would be admissible at the trial of the action before a Judge of this Court.

3. It is further ordered that the costs of this action, and of this motion, and of the said reference, be in the discretion of the said Referee.

1302. NOTICE OF MOTION FOR PROCEDURE ORDER.

(Sec. 102.)

(Formal Parts.)

Take notice an application will be made before His Honor, ———, Esquire, Referee under the Drainage Laws of Ontario, at his Chambers in the City of ———, in the County of ———, on ———day, the ——— day of ———, A.D. 19—, at the hour of eleven o'clock in the forenoon, or so soon thereafter as the application can be heard, for an order directing the procedure to be followed in connection with the trial and determination of the appeal of the above-named ——— from the above-mentioned report, and for such further and other directions and order as to the said Referee shall seem meet.

And take notice that in support of such application will be read the affidavit of ———, this day filed, and the exhibit therein referred to.

Dated at the City of ——— this ——— day of ———, 19—.

1303. PROCEDURE ORDER.

(Formal Parts.)

Upon the application of the above-named Defendant, and upon reading the Notice of Appeal filed and served herein, acceptance of service thereof for the Defendant by its solicitor endorsed upon the Notice of Appeal on file herein, the affidavit of ——— filed in support of this Application and the exhibit therein referred to, and the Notice of Motion served herein with admission of service, and upon hearing counsel for the plaintiff and defendant, it is ordered:

1. That within eight days after the date hereof the Defendant do file and serve a written statement of their reasons against and objections to the said Notice of Appeal and grounds thereof.

2. That any party hereto may, after the reasons against and objections to the said Appeal are delivered, or the Plaintiff may, after the time for delivering the same has expired, upon an order of course upon præcipe directing that the adverse party do, within ten days after the service thereof, make discovery on oath of the documents which are or have been in their possession or power relating to any matters in question herein, and do produce to and deposit the same with the Clerk of the County Court of the County of ——— for the usual purposes.

3. That the Plaintiff may, within twenty-one days after the reasons against and objections to the said Appeal are delivered, file and serve a reply to such reasons against and objections to the said Appeal.

4. That the Plaintiff may, after the reasons against and objections to the Appeal herein have been delivered, or any officer or servant of the Defendant may, after the time for delivery of the

same has expired, upon præcipe order, be orally examined before the trial thereof touching the matters in question by the adverse party, and he thereby will be required to attend and testify in the same manner and upon the same terms and subject to the same rules of examination as a witness, except as hereinafter provided.

5. That the said Plaintiff or such officer or servant of the Defendant do attend before ———, Esquire, Clerk of the County Court of the County of ———, at such time and place as he shall appoint, and upon such notice and the payment of such fees and otherwise as would govern and be required in an action in the High Court of Justice, to be examined for purposes of discovery, the costs of such examination to be disposed of on the trial hereof.

6. That the said Plaintiff or such officer or servant of the Defendant so to be examined shall, if so required by notice served upon them or their respective solicitors, produce on the examination all books, papers and other documents which would be required to be produced at the trial under subpœna duces tecum.

7. That any party hereto shall be entitled to obtain the production for inspection of any documents of the opposite party, by giving notice to the solicitor of such opposite party and shall be entitled to take copies of such documents when so produced for inspection; and any party not producing any documents in compliance with such notice shall not afterwards be at liberty to use the documents not produced in evidence herein, unless the Court shall be satisfied that there was some good and sufficient cause for not complying with the notice, and special application may be made at any time after refusal to produce, for an order compelling production thereof.

8. That the party to whom such notice is given shall, within two days from the receipt thereof, deliver to the party delivering the same a notice stating the time within three days from the delivery thereof at which the documents may be inspected at the office of the party's solicitor, and also stating which, if any, of the documents they object to produce and on what grounds.

9. That any party may be called upon by the opposite party to admit any documents, and it shall be sufficient if written admissions are signed by the solicitor of the party by whom or on whose behalf the admissions purport to be made.

10. That any party may cause to be issued a Writ of Subpœna ad test. in the name of the Referee under the Drainage Laws and bearing date upon the day when the same is issued, in which any number of names may be included, calling upon the person or persons to whom it is directed to be present upon the trial thereof, and a subpœna duces tecum, if desired or required, may likewise be issued requiring the person or persons named therein to bring with him or them and produce such documents, books or papers as are in the said Writ of Subpœna set out.

11. That any party may apply, upon two days' notice to the other party, for such further or other documents as may be necessary for the proper conduct or trial of this matter.

12. That the costs of and incidental to this Application shall be costs in the cause.

Tax a counsel fee of ———.

Referee under the Drainage Laws.

1304. OBJECTIONS AND DEFENCES

To Notice of Appeal.

(Formal Parts.)

Objections and defences to the appeal of the said appellants, delivered in pursuance of an order made by ———, Esquire, Referee under the Drainage Laws, dated the ——— day of ——— 19—.

(Here set forth in numbered paragraphs the matters intended to be relied on in support of the report, and in answer to the grounds alleged in the notice of appeal.)

Delivered the ——— day of ——— 19— by ——— of the ——— of ——— in the County of ———, solicitor for the said respondents.

1305. NOTICE OF APPLICATION TO SET ASIDE REPORT.

(Sec. 98.)

IN THE HIGH COURT OF JUSTICE.

In the matter of the Municipal Drainage Act.

Between ———, Plaintiff, and ———, Defendant.

Take notice that an application will be made on behalf of the above-named Plaintiff to His Honour ———, Referee under the Drainage Laws, at such time and place as the said Referee shall, after the expiration of ten days from the service hereof, in writing appoint for that purpose, for an order setting aside and declaring void the report of ———, Engineer for the defendant in respect of the improvement of Numbers two and three Government Drains' Outlet in the said Township of ———, and the plans, profiles, specifications, estimate and assessments attached thereto, which said report is dated the ——— day of ———, 19—, and was adopted by by-law of the defendant provisionally passed on the ——— day of ———, 19—, but which has not been finally passed; and for an order setting aside the said provisional by-law and declaring that the said report, plans, profile, estimate and specifications and assessment, and the said by-law, are invalid and void, or for an order amending the same, as to the said Referee shall seem meet.

This application is made upon the following, amongst other, grounds:

1. The said proposed drainage work is not based upon any proper or sufficient petition signed by a majority in number of the resident and non-resident persons as shown by the last revised assessment roll to be the owners of lands to be benefitted in the drainage area.

2. No proper or sufficient resolution of the council of the defendant has ever been passed to give the engineer authority to make the examination and report above referred to, and the engineer was wholly without jurisdiction in the premises.

3. The engineer, before entering upon his duties in regard to the said work, did not take and subscribe the other prescribed by the Statute in that behalf.

4. The engineer has proceeded upon a wrong principle of assessment and has assessed lands and roads that are not liable to assessment.

5. The lands owned by the above-named plaintiff, namely: the South half of Lot number eleven in the fifth concession of the said Township, assessed by the engineer for ——— dollars for benefit and ——— dollars for outlet liability, are not benefited by the said work and are not assessible for benefit.

6. The proposed work is unnecessarily expensive, and the defendant is not warranted in adopting the said report and proceeding with the work thereby proposed, when the same results can be obtained at a greatly reduced cost to the ratepayers; and the said provisional by-law and the report adopted thereby, are not in the interest of the ratepayers in the drainage area.

7. All other grounds appearing in the said report, plans, specifications, etc., and in the said by-law.

8. And take notice that in support of this application will be read the affidavit of the above-named plaintiff this day filed and the exhibits therein referred to, a copy of which affidavit is served herewith, and the Township Clerk's and Engineer ——— evidence to be taken upon subpœna, and such further and other material as may be filed in connection therewith.

Dated at ——— this ——— day of ———, A.D. 19—.

Solicitor for above-named Plaintiff.

To the Corporation of the ———

1306. ORDER TO AMEND REPORT.

(Sec. 94.)

IN THE HIGH COURT OF JUSTICE.

———, Esquire, Drainage Referee. | ———, the ——— day of ———, A.D. 19—.

In the matter of the Municipal Drainage Act.

Between A.B., Plaintiff,

and

C. D., Defendant.

This application having come on before me, with the consent of all parties, at the Town of ———, in the County of ———, this day, in the presence of counsel for the plaintiff and defendant, and having read the notice of motion and the affidavit filed in support thereof, and the report of ———, Esquire, Engineer, for the Defendant, in respect of the improvement of Nos. 2 and 3 Government Drains outlet in the Township of ———, in the County of ———, and the plans, profiles, specifications, estimate and assessments attached thereto, which said report is dated the ——— day of ———, A.D. 19—, and having read also the by-law passed by the defendant provisionally on the ——— day of ———, 19—, and having heard the evidence adduced and what was alleged by counsel for both parties, and the said Engineer ——— consenting that his said report be amended as hereinafter set forth, as appears more particularly by his consent filed:

1. It is ordered that the above-mentioned report, plans, profiles and specifications be amended by changing the same so as to provide that the width of the proposed drainage work shall be sixty feet at the normal water level in the drain, with side slopes of one to one, instead of, as is provided by the said report, being sixty feet at the bottom of the drain, with side slopes of one to one.

2. And it is further ordered that, subject to the amendment above directed to be made, this application be, and the same is hereby dismissed, and the said report amended as aforesaid shall be, and the same is hereby confirmed.

3. And it is further ordered that the costs of all parties to this action shall be taxed on the High Court scale and paid by the defendant forthwith after taxation thereof, and shall be charged up to the drainage area described in the assessment attached to the said report.

The taxing officer will allow to Counsel herein a counsel fee at trial of $———.

———, Referee.

1307. NOTICE OF CLAIM FOR DAMAGES.

(Sec. 98, s.s. 2.)

IN THE HIGH COURT OF JUSTICE.

In the Matter of the Municipal Drainage Act,
And in the Matter of a Claim Thereunder.
Between A.B., Plaintiff,
and
The Corporation of the Township of ———, Defendants.

Notice of Claim.

1. The plaintiff is a farmer and resides in the Township of ———, and is the owner of lot No. ——— in the ——— concession of the said Township of ———.

2. The defendants ——— constructed the drainage works in the Township of ——— known as the ——— drain, and the plaintiff's lands aforesaid were assessed for the original construction of the said drainage works and for the repair and maintenance thereof.

3. On or about the ——— day of ———, or in the months of ——— and ———, 19—, the plaintiff suffered damage through the neglect, default and breach of duty of the defendants in not properly constructing the said drain and allowing same to become and remain out of repair, whereby the plaintiff's lands were flooded.

The plaintiff claims:

1. Damages in the amount of $———, of which the following are the particulars:

Injuries to live stock and cattle.....$———
Injuries to crops.....$———
Injury to lands.....$———
Loss sustained through inability to work the lands..$———
Loss of pasturage.....$———

2. A mandamus compelling the defendants to maintain and keep in proper repair the said drain.

Dated at ——— this ——— day of ———, 19—.

Solicitors for ———.

To the above-named defendants.

1308. ENDORSEMENT ON NOTICE OF CLAIM.

To the Corporation of the Township of ———.

Take notice that you are required within ten days after the service of this notice on you, inclusive of the day of such service, to cause an appearance to be entered for you in the office of the Clerk of the County Court of the County of ———, and in default of your so doing you will not be entitled to notice of any further proceedings herein.

Dated, etc.

1309. AFFIDAVIT OF SERVICE OF NOTICE OF CLAIM.

(Formal Parts.)

I, ———, of the City of ———, in the County of ——— and Province of ———, ———, make oath and say as follows:

1. That I did on ———, the ——— day of ———, 19—, personally serve ———, Clerk of the Township of ———, with a Notice of Claim, of which a true copy is hereto annexed and marked "A," by delivering the said Notice of Claim to and leaving the same with him the said ———.

Sworn, &c.

1310. DEFENCE TO NOTICE OF CLAIM.

(Sec. 98.)

(Formal Parts.)

1. The defendants say as to damages claimed by the plaintiff claimant that he has not sustained any damages during the six years preceding the commencement of this action by the overflow of the ——— Drain or the backing up of waters therefrom except during the year ——— and ———, and during those years the rainfall was so extraordinary and excessive that no reasonable amount of drainage could prevent damage to the plaintiff, and if he suffered from an accumulation of water upon his premises during those years his damage was occasioned by no act or omission on the part of the Respondents.

2. That as to any damage claimed by the Claimants to have been sustained more than six years before the commencement of this action the Respondents plead the Statute of Limitations.

3. The defendants constructed the said drain according to the plan and profile and under the direction of a competent engineer, and if the same is inadequate they are not liable in damages to the plaintiff.

Dated, etc.

1311. NOTICE OF HEARING.

(Formal Parts.)

Take notice of the hearing of the Appeal herein at the Court House in the City of ——— before His Honour ———, Esquire, ——— Referee under the Drainage Laws, for ———, the ——— day of ———, 19—, at the hour of 11 o'clock in the forenoon, or so soon thereafter as the hearing may take place.

Dated at ———, this ——— day of ———, A.D. 19—.

1312. ORDER FOR JUDGMENT.

Under the Municipal Drainage Act, Sec. 107.

IN THE HIGH COURT OF JUSTICE.

———, Esquire, K.C., Referee under The Municipal Drainage Act. } ———day, the ——— day of ——— 19—.

Between A.B., Plaintiff,
and
The Corporation of the Township of ———, Defendants.

This action having come on to be tried before ———, Esquire, K.C., Referee under The Municipal Drainage Act, at the Court

House in the City of ——— in the County of ——— on the ——— day of 19— under and pursuant to the provisions of The Municipal Drainage Act, and the said Referee having read the pleadings and heard the evidence and what was alleged by counsel for both parties:

1. It is ordered and adjudged that the plaintiff be at liberty to enter judgment against the defendants for the sum of ——— damages and the costs of this action to be paid forthwith after taxation thereof.

2. And it is further ordered that the plaintiff be at liberty at any time hereafter that he may be advised to renew his application in this action for a mandatory order to compel the defendants to repair the drain in the pleadings mentioned.

3. And it is further ordered that this order be without prejudice to the plaintiff's right to sue for any damages that he may hereafter suffer by reason of the non-repair of the said drain.

CHAPTER LVIII.

PROCEEDINGS IN THE EXCHEQUER COURT OF CANADA.

R.S.C. (1906), Ch. 140.

Under the General Rules and Orders Adopted January 11th, 1909.

I. Proceedings Against the Crown.

1313. PETITION OF RIGHT.

Petition of Right Act, R.S.C. (1906), Ch. 142.

In the Exchequer Court of Canada.

To the King's Most Excellent Majesty:

County (*or* district) of (*place proposed for trial*) to wit:

The humble petition of A.B. of ———, showeth that (*state with convenient certainty the facts on which petitioner relies as entitling him to relief*).

Conclusion.

Your suppliant therefore humbly prays that (*state the relief claimed*).

Dated the ——— day of ———, A.D. 19—.

(*Signed*)
or C.D., Counsel for A.B.

1314. ENDORSEMENT OF PETITION.

The suppliant prays for a statement in defence on behalf of His Majesty, within four weeks after the date of service hereof, or otherwise that the petition may be taken as confessed.

1315. NOTICE TO FILE DEFENCE.

To A.B.

You are hereby required to file a statement in defence to the within petition in His Majesty's Exchequer Court of Canada, within four weeks after the date of service hereof.

Take notice, that if you fail to file a statement in defence or demurrer in due time, the said petition may, as against you, be ordered to be taken as confessed.

Dated the ——— day of ———, A.D. 19—.

1316. JUDGMENT AT TRIAL.

Monday the ——— day of ———, A.D. 19—.

Present: The Honourable Mr. Justice.

In the matter of the Petition of Right of A.B., Suppliant; and His Majesty the King, Respondent.

The Petition of Right of the above named suppliant coming on for trial, at the City of ——— this day (*or as the case may be*) (*or* having come on, etc., on the ——— day of ———, A.D. 19—) before this court in presence of Counsel for the suppliant and the respondent, upon hearing read the pleadings herein (*or such other documents as may be material or any evidence taken before trial by commission or otherwise*) and upon hearing the evidence adduced at trial, and what was alleged by Counsel aforesaid (*when case reserved add*: This Court was pleased to direct that this action should stand over for judgment, and the same coming on this day for judgment).

(*When Relief Granted.*)

This Court doth order and adjudge that the said suppliant is entitled to recover from His Majesty the King the sum of $——— being the relief (*or* part of the relief, *as the case may be*) sought by his Petition of Right herein, and costs to be taxed.

(*When Relief Refused.*)

This Court doth order and adjudge that the said suppliant is not entitled to the relief sought by his Petition of Right herein and that His Majesty the King recover from the said suppliant His costs herein, to be taxed.

1317. CERTIFICATE OF JUDGMENT.

To the Honourable the Minister of Finance and Receiver General:

Petition of right of A.B. in His Majesty's Exchequer Court of Canada, at ———.

I hereby certify, that on the ——— day of ———, A.D. 19—, it was, by the said court adjudged (*or* ordered), that the above named suppliant was entitled to, etc.

(*Judge's signature.*)

II. PROCEEDINGS BY THE CROWN.

Rules 2 to 14.

1318. FORM OF INFORMATION.

IN THE EXCHEQUER COURT OF CANADA.

Between His Majesty the King, on the information of the Attorney-General of Canada, Plaintiff, and ———, Defendant.

Filed on the ——— day of ———, A.D. 19—.

To the Honourable the Judge of the Exchequer Court of Canada:—

The information of the Honourable ——— His Majesty's Attorney-General of Canada, on behalf of His Majesty sheweth as follows (*here state facts concisely*):

Claim.

The Attorney-General, on behalf of His Majesty the King, claims as follows:—

(a)

(b)

Dated at ———, this ——— day of ———, 19—.

Attorney-General.

1319. STATEMENT OF CLAIM.

In Action on Post-Master's Bond.

IN THE EXCHEQUER COURT OF CANADA.

Between The Postmaster General for Canada, Plaintiff, and A.B., C.D., and E.F., Defendants.

Statement of Claim.

Filed the ——— day of ———, 19—.

1. The defendants, by their bond bearing date the ——— day of ———, A.D. 19—, became jointly and severally bound to His Majesty the King in the sum of $——— to be paid by the said defendants to His Majesty the King, subject to certain conditions thereunder written, upon fulfilment whereof the said bond was to become void.

2. One of the said conditions was and is that the said A.B. should, from time to time, and at all times when thereunto

required, well and truly pay over to the Postmaster General for Canada all sums as might or ought to be had and received by him for the sale and disposal of postage stamps and stamped envelopes according to the value of the same, respectively, entrusted to him for sale as postmaster at, &c.

3. Postage stamps and stamped envelopes to the value of one thousand dollars were, on ——— day of ——— or thereabouts entrusted to the said A.B. as postmaster at, &c, for sale, and he has sold the same.

4. The said A.B. has paid over only $100 of the amount received by him on account of such sale, and refuses to account for the balance of the amount received by him for the sale of the said postage stamps and stamped envelopes, although he has been required to do so.

5. A statement of the account of the said A.B. as such postmaster and attested as correct by the certificate and signature of the accountant of the Post Office of Canada, shows such balance of $900 to be due and unpaid by the said A.B.; and, by virtue of the Post Office Act, R.S. 1906, ch. 66, the plaintiff is entitled to demand judgment against the defendant for double the amount of the said balance.

The plaintiff claims:—

1. Judgment against the said defendants, jointly and severally, for the sum of $1,800 and costs of suit.

1320. INFORMATION OF INTRUSION.

In the Exchequer Court of Canada.

Between His Majesty the King, on the information of the Attorney-General of Canada, Plaintiff, and John Smith, Defendant.

Filed ——— day of ———, A.D. 19— .

To this Honourable Court:

The information of the Honourable ——— His Majesty's Attorney-General of Canada, on behalf of His Majesty showeth as follows:

1. That certain lands and premises situate in the City of ——— in the County of ———, Province of Ontario, and being, &c., on the first day of October in the year of our Lord, 19—, and long before were and still ought to be in the hands and possession of His Majesty the King.

2. That the defendant on the said ——— day of ——— in the year aforesaid in and upon the possession of His Majesty the King, of and in the premises, entered, intruded and made entry, and the issues and profits thereof coming received and had and yet doth receive and have to his own use.

Claim.

The Attorney-General on behalf of His Majesty the King claims as follows:—

1. Possession of the said lands and premises.

2. $——— for the issues and profits of the said lands and premises from the said ——— day of ———, A.D. 19—, till possession shall be given.

(Signed) 19—.

1321. INDORSEMENT ON INFORMATION OR STATEMENT OF CLAIM.

Notice to the defendant within named.

You are required to file with the Registrar of the Exchequer Court of Canada, at his office, in the City of Ottawa, your plea, answer or exception, or otherwise make your defence to the within information (*or* statement of claim, *as the case may be*) within four weeks from the service hereof. If you fail to file your plea, answer or exception, or otherwise make your defence within the time above limited, you are to be subject to have such judgment, decree, or order made against you as the Court may think just upon the informant's (*or* plaintiff's) own showing; and if this notice is served upon you personally you will not be entitled to any further notice of the further proceedings in the cause.

Note.—This information (*or* statement of claim) is filed by A.B., &c., His Majesty's Attorney-General of Canada, on behalf of His Majesty (*or* by ——— of the City of ———, Solicitor for the within named plaintiff).

1322. AFFIDAVIT FOR WRIT OF IMMEDIATE EXTENT IN CHIEF.

IN THE EXCHEQUER COURT OF CANADA.

(*Full Style of Cause.*)

1. I am (*state if he is an officer of the Crown, and in what capacity and under what authority he is acting herein*).

2. The said defendant is indebted to the Crown in the sum of $——— or thereabouts (*state here in what manner it arose, and that it is in danger of being lost; and it should contain not only a general allegation of the defendant's insolvency, but also some particular fact or instance, such as that he has committed an act of bankruptcy, or stopped payment or absconded or that an execution has issued against him. Where against a bond debtor to the Crown, the affidavit should contain a distinct, positive and unequivocal allegation of the breach of the condition of the bond, &c.*)

3. The defendant further says he verily believes that unless some method more speedy than the ordinary course of proceeding at law be had against the said defendant ———, for the recovery of the sum of $———, or thereabouts, the same is in danger of being lost.

1323. FIAT OR ORDER FOR WRIT OF IMMEDIATE EXTENT.

For Writ of Immediate Extent.

IN THE EXCHEQUER COURT OF CANADA.

Before The Honourable Mr. Justice ——— in Chambers.

(*Style of Cause.*)

Upon hearing A.B. of Counsel for His Majesty the King and upon hearing read the affidavit of C.D., let a writ or writs of Immediate Extent issue against the said defendant ———, for the recovery of the sum of $———.

Dated at Ottawa, the ——— day of ———, A.D. 19—.

1324. WRIT OF IMMEDIATE EXTENT.

(*Full Style of Cause.*)

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To the Sheriff of ———, Greeting:—

Whereas by the affidavit of C.D., it appears that A.B. of ——— is indebted to Us in the sum of $——— lawful money of Canada, for ——— which said sum of $——— still remains due and unpaid to Us as by reference to the said affidavit filed in Our said Exchequer Court more fully appears.

Now we being willing to be satisfied the said sum of $——— so due to Us with all the speed We can, as is just, do command you that you omit not by reason of any liberty, but enter the same and summon the said A.B. to appear in Our said Exchequer Court, at Ottawa on the ——— day of ———, A.D. 19—, and that you diligently inquire what lands and tenements and of what yearly values that said A.B. now has in your bailiwick and what goods and chattels and of what sorts and prices, and what debts, credits, specialties and sums of money the said A.B. or any person or persons to his use or in trust for him now hath or have in your said bailiwick and that all and singular the said goods and chattels, lands and tenements, debts, credits, specialties and sums of money in whose hand soever the same now are, you diligently appraise and extend, and do take and seize the same into Our hands, there to remain until We shall be fully satisfied the said debt, according to the form of the Statute made for the recovery of such Our debts. And lest this Our command should not be fully

executed We further command and empower you by these presents to summon before you such persons as you shall think proper and carefully examine them in the premises, and that you distinctly and openly make appear to Our said Exchequer Court immediately (*unless a special day of return is mentioned in the fiat*) after the execution hereof, and in what manner you shall have executed this Our command, and that you then have there this writ; provided that what goods and chattels you shall seize into Our hands by virtue hereof, you do not sell or cause to be sold until We shall otherwise command you.

Witness the Honourable ———, Judge of Our Exchequer Court of Canada, at Ottawa, this ——— day of ———, A.D. 19—.

By the warrant of Mr. Justice ———.

III. Proceedings Between Subject and Subject.

1325. STATEMENT OF CLAIM.

Qui Tam Action.

In the Exchequer Court of Canada.

Between A.B., who sues as well for His Majesty the King as for himself, Plaintiff, and C.D., Defendant.

Filed ——— day of ———, A.D. 19—.

Statement of Claim.

1. By section ——— of the Act passed by the Parliament of Canada in the ——— year of His Majesty Edward the Seventh's reign, intituled: An Act ———, it is enacted, among other things, as follows: (*set forth the material part of the Section*).

2. (*Add any other grounds.*)

Claim.

The plaintiff claims:—

1. Judgment against the said defendant for the said sum of ———, and costs of suit.

1326. STATEMENT IN DEFENCE.

(*Title.*)

1. The defendant, in answer to the Plaintiff's statement of claim, says as follows:—

1. He admits the statements in paragraphs 1, 2 and 3 (*as the case may be*).

2. (*Add any other grounds of defence—each one to be stated concisely in a separate paragraph*).

3. The defendant therefore, &c., &c.

Dated at ——— the ——— day of ———, A.D. 19—.

Solicitor for Defendant.

1327. REPLY.

(*Title.*)

1. The plaintiff joins issue upon the defendant's statement in defence.

(*Add any other grounds of reply in concise separate paragraphs.*)

1328. ADMISSION OF DEFENCE.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D., Defendant.

The informant (*or* plaintiff) confesses the defence stated in the ——— paragraph of the defendant's statement in defence (*or* of the defendant's further statement in defence).

1329. ADVERTISEMENT

Where a Defendant is Not to be Found.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D., Defendant.

(*Copy order.*)

To the defendant C.D.

Take notice that unless you file your plea, answer or exception, or otherwise make your defence pursuant to the requirements of the above order, the Court or a Judge may direct that the case shall thereafter proceed as though you had filed a plea, answer or defence traversing or denying the allegations contained in the information (petition of right *or* statement of claim, *as the case may be*) filed in this cause, and the action will thereafter proceed accordingly.

1330. ORDER FOR SECURITY FOR COSTS.

IN THE EXCHEQUER COURT OF CANADA.

Before the Honourable Mr. Justice ——— in Chambers.

(*Style of Cause.*)

Upon the application of the ——— and upon hearing read the summons issued herein on the ——— day of ———, A.D. 19—, and the affidavit of ——— and upon hearing what was alleged by counsel for both parties.

I do order that the ——— do, within 30 days from the service of this order, give security on ——— behalf in the penal sum of $400 to answer the ——— costs of this action, and that all proceedings be in the meantime stayed.

Dated at Ottawa, this ——— day of ———, A.D. 19—.

1331. BOND FOR SECURITY FOR COSTS.

Know all men by these presents that we A.B. of ——— (*the plaintiff giving security*) and C.D. ——— of, &c., and E.F. of, &c., ——— (*bondsmen*), are jointly and severally held and firmly bound unto G.H. of, &c. (*the defendant or person requiring security*) in the penal sum of ($400) four hundred dollars of lawful money of Canada to be paid to the said G.H. his executors, administrators or assigns for which payment well and truly to be made, we bind ourselves and each of us binds himself, our, and each of our heirs, executors and administrators, respectively, firmly by these presents. Sealed with our seals.

Dated at ——— this ——— day of ———, 19—.

Whereas by an order dated the ——— day of ———, A.D. 19—, and made in a certain action now pending in the Exchequer Court of Canada, wherein the said A.B. is plaintiff and the said G.H. is defendant, it was ordered that the said A.B. should within ———, from the date of said order, give security to the said defendant in the penal sum of four hundred dollars, to answer the defendant's costs of this action.

Now the condition of this bond is such that if the above bounden A.B., C.D., and E.F., or one of them, their or one of their heirs, executors or administrators do and shall well and truly pay or cause to be paid to the said G.H., his executors, administrators, or assigns, all such costs as may be awarded to him the said G.H. in the said action, then this obligation shall be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered
in presence of

1332. THIRD PARTY NOTICE.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D., Defendant.

Notice filed ———, 19—.

To X.Y.

Take notice that this action has been brought by the plaintiff against the defendant (as surety for M.N. upon a bond conditioned for payment of $2,000 and interest to the plaintiff).

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him on the ground that you are (his so-surety under the said bond *or* also surety for the said M.N. in respect of the said matter, under another bond made by you in favour of the said plaintiff, dated the ——— day of ———, A.D. 19—).

Or, (as acceptor of a bill of exchange for $500 dated the ——— day of ———, A.D. 19—, drawn by you upon and accepted by the defendants, and payable three months after date.

The defendant claims to be indemnified by you against liability under the said bill, on the ground that it was accepted for your accommodation).

Or, (to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 1,000 tons of coal.

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof on the ground that it was made by him on your behalf and as your agent).

And take notice that, if you wish to dispute the plaintiff's claim in this action as against the defendant C.D. or your liability to the defendant C.D. you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so appearing, you will be deemed to admit the validity of any judgment obtained against the defendant C.D. and your own liability to contribute or indemnify to the extent herein claimed, which may be summarily enforced against you.

Dated, &c.

1333. ORDER REFUSING INTERLOCUTORY INJUNCTION.

IN THE EXCHEQUER COURT OF CANADA.

——— day, the ——— day of ———, A.D. 19—.

Present: The Honourable Mr. Justice ———.

(*Style of Cause.*)

Upon motion made unto this Court this day (under special leave, *or as the case may be*) by counsel on behalf of the above named plaintiff, in the presence of counsel for the above named defendant, for an order that the defendant (*here recite the notice of motion*) upon hearing read the notice of motion herein dated the ——— day of ———, 19—, and the affidavits of ——— and the exhibits therein referred to, filed and upon hearing what was alleged by counsel aforesaid; and the defendants, by their counsel, undertaking until the trial of this action, to keep account (*here recite the undertaking filed by the defendants*).

This Court doth not think fit to make any order on the said motion, other than that the costs thereof be costs in the cause (*or* that the costs thereof be reserved, *as the case may be*).

1334. AFFIDAVIT AS TO DOCUMENTS.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D., Defendant.

I, the above named defendant C.D., make oath and say as follows:—

1. I have in my possession or power the documents relating to the matters in question in this suit, set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule thereto.

3. That (*here state upon what grounds the objection is made, and verify the facts as far as may be*).

4. I have had, but have not now in my possession or power the documents relating to the matters in question in this suit, set forth in the second schedule hereto.

5. The last mentioned documents were last in my possession or power (*state when*).

6. That (*here state what has become of the last mentioned documents, and in whose possession they now are*).

7. According to the best of my knowledge, information and belief, I have not now and never had in my possession, custody or power, or in the possession, custody or power of my solicitors or agents or in the possession, power or custody of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing, or any copy or extract from any such document, or of any other document whatsoever relating to the matters in question in this suit, or any of them, or wherein any entry has been made relative to such matters or any of them other than and except the documents set forth in the first and second schedules hereto.

(*Schedules.*)

1335. NOTICE TO PRODUCE DOCUMENTS.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B. and C.D.

Take notice that the plaintiff (*or* defendant) requires you to produce for his inspection the following documents referred to in

your statement of claim (*or* defence, *or* affidavit) dated the ——— day of ———, A.D. 19— (*describe documents required*).

Dated at ——— day of ———, 199—.

Solicitor for the ———.

To Z., solicitor for ———.

1336. NOTICE TO INSPECT DOCUMENTS.

IN THE EXCHEQUER COURT OF CANADA.

Between, &c.

Take notice that you can inspect the documents mentioned in your notice of the ——— day of ———, A.D. 19—, (except the deed numbered ——— in that notice), at my office on Thursday next the ——— instant, between the hours of 12 and 4 o'clock.

Or that the plaintiff (*or* defendant) objects to giving you inspection of the documents mentioned in your notice of the ——— day of ———, A.D. 19—, on the ground that (*state the ground*).

Dated ——— day of ———, 19—.

Solicitor for ———.

To Z., solicitor for ———.

1337. NOTICE TO ADMIT DOCUMENTS.

IN THE EXCHEQUER COURT OF CANADA.

Between, &c.

Take notice that the plaintiff (*or* defendant) in this cause proposes to adduce in evidence the several documents hereunder specified and that the same may be inspected by the defendant (*or* plaintiff) his solicitor or agent at ——— on the ——— day of ———, between the hours of ———; and the defendant (*or* plaintiff) is hereby required within forty-eight hours from the last mentioned hour, to admit that such of the said documents as are specified to be originals were respectively written, signed or executed as they purport respectively to have been, that such as are specified as copies are true copies and such documents as are stated to have been served, sent or delivered were so served, sent or delivered respectively, saving all just exceptions to the admissibility of all such documents as evidences in this cause.

Dated, &c.

Solicitor for ———. Solicitor for ———.

G.H. solicitor (*or* agent) for plaintiff (*or* defendant).

(*Here describe the documents, the manner of doing which may be as follows*:—

Originals.

Description of Documents.	Dates.

Copies.

Description of Document.	Dates.	Original or Duplicate, sent or delivered, when, how and by whom.

1338. ORDER FOR ISSUE OF COMMISSION.

IN THE EXCHEQUER COURT OF CANADA.

Before ——— the Honourable Mr. Justice ——— in Chambers.

(*Style of Cause.*)

Upon the application of the ——— and upon hearing read the summons issued herein on the ——— day of ———, A.D. 19—, and the affidavit of ——— filed, and upon hearing what was alleged by Counsel as well for the ——— as for the ———.

I do order that the ——— be at liberty to issue herein, in the form provided for by the Rules of this Court in that behalf a Commission for the examination of witness (*or* witnesses, *as the case may be*) on behalf of ——— at ———.

And I do further order that the Commission may issue directed to ——— Commissioner (*or* Commissioners, *as the case may be*) for the examination *viva voce* (*or* on interrogatories and cross interrogatories, *as the case may be*) on oath, affirmation or otherwise of witness ——— (*or* witnesses) on behalf of the said ——— (*or* on behalf of the plaintiff and defendant respectively, *as the case may be*).

And I do further order that the costs of and incidental to this order and of the Commission to be issued by virtue thereof, and the depositions and affirmations to be taken thereunder be and the same are hereby reserved (*or as the case may be*) costs in the cause.

Dated at Ottawa, this ——— day of ———, A.D. 19—.

1339. SUBPŒNA.

IN THE EXCHEQUER COURT OF CANADA.

GEORGE THE FIFTH by the Grace of God of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To ———, Greeting:—

We command you that all excuses ceasing you and each of you, do personally be and appear before the ——— at ——— on the

——— day of ——— at ——— o'clock in the ——— noon to testify the truth according to your knowledge in a certain cause depending in Our Exchequer Court of Canada, wherein ——— is ——— and ——— is ——— on the part of ——— and hereof fail not at your peril.

Witness the Honourable ———, the Judge of Our Exchequer Court of Canada at ——— the ——— day of ——— in the year of Our Lord one thousand nine hundred and ——— and the ——— year of Our reign.

Registrar.

1340. SUBPŒNA DUCES TECUM.

The same as the preceding form, adding before the words: "and hereof fail not at your peril" *the words* "and that you bring with you and then and there produce before the said Judge (Registrar, Referee, *or* Commissioner, *as the case may be*) the following documents, viz.:—(*here state the documents required to be produced*) and show all and singular those things which you know, or which the said paper writing doth import of, in or concerning the present cause now depending in Our said Court.

1341. PRÆCIPE TO SET DOWN SPECIAL CASE.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D. and others, Defendants.

Set down for argument the special case filed in this action on the ——— day of ———.

Dated, &c.

Solicitor for ———.

1342. JUDGMENT IN DEFAULT OF DEFENCE.

In Case of Liquidated Demand.

IN THE EXCHEQUER COURT OF CANADA.

———day the ——— day of ———, A.D. 19—.

Present: The Honourable Mr. Justice ———.

Between A.B., Plaintiff,
and
C.D. and E.F., Defendant.

The defendants not having filed any statement in defence:

This Court doth order and adjudge that the said plaintiff recover from the said defendants the sum of $——— and costs to be taxed.

1343. JUDGMENT IN DEFAULT OF DEFENCE.

In Action for Recovery of Land.

(*Title.*)

No defence having been filed to the information herein.

This Court doth order and adjudge that the plaintiff recover possession of the land in the information mentioned.

1344. JUDGMENT—DISMISSING ACTION.

(*Title, &c.*)

This Court doth order and adjudge that the said plaintiff recover nothing against the said defendant, and that the defendant recover against the plaintiff his costs of the action to be taxed.

1345. WRIT OF FIERI FACIAS.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,

and

C.D. and others, Defendants.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To the Sheriff of ———, Greeting:

We command you that of the goods and chattels of C.D. in your bailiwick, you cause to be made the sum of $——— and also interest thereon at the rate of five per centum per annum, from the ——— day of ——— (*day of judgment or order, or day on which money directed to be paid, or day from which interest is directed to be paid, or day from which interest is directed by the order to run, as the case may be*) which said sum of money and interest were lately before Us in Our Exchequer Court of Canada in a certain action (*or* certain actions, *as the case may be*) wherein A.B. is plaintiff and C.D. and others are defendants (*or* in a certain matter there depending, intituled in the matter of E.F., *as the case may be*) by a judgment (*or order, as the case may be*) of Our said Court, bearing date the day of ——— adjudged (*or ordered, as the case may be*) to be paid by the said C.D. to A.B. together with certain costs in the said judgment (*or* order, *as the case may be*) mentioned, and which costs have been taxed and allowed by the taxing officer of Our said Court at the sum of ———, as appears by the certificate of the said taxing officer, dated the ——— day of ———. And that of the goods and chattels of the said C.D. in your bailiwick you further cause to be

made the said sum of (*costs*) together with interest thereon at the rate of five per centum per annum, from the ——— day of ——— (*the date of the certificate of taxation. The writ must be so moulded as to follow the substance of the judgment or order*), and that you have that money and interest, together with the costs incurred upon issuing and executing the present writ, before Us in Our said Court immediately after the execution hereof, to be paid to the said A.B. in pursuance of the said judgment (*or* order, *as the case may be*) and in what manner you shall have executed this Our writ, make appear to Us in Our said Court immediately after the execution thereof, and have there then this writ.

Witness the Honourable ———, Judge of Our Exchequer Court of Canada, at Ottawa, this ——— day of ——— in the year of Our Lord one thousand nine hundred and ———, and in the ——— year of Our reign.

1346 PRÆCIPE FOR WRIT OF FIERI FACIAS.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D., Defendant.

Seal a writ of *fieri facias* directed to the Sheriff of ——— to levy, of the goods and chattels of C.D. the sum of $——— and interest thereon at the rate of five per centum per annum, from the ——— day of ——— (and $——— costs).

Judgment (*or* order) dated ——— day of ———.

(Taxing Master's certificate, dated ———.)

X.Y., Solicitor for (*party on whose behalf writ is to issue*).

1347. WRIT OF VENDITIONI EXPONAS.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D. and others, Defendants.

GEORGE THE FIFTH, &C.:

To the Sheriff of ———, Greeting:

Whereas by Our writ we lately commanded you that of the goods and chattels of C.D. (*here recite the fieri facias to the end*) and on the ——— day of ——— you returned to Us, at Our Exchequer Court of Canada aforesaid that by virtue of the said writ to you directed, you had taken the goods and chattels of the said C.D. to the value of the money and interest aforesaid, which said goods and chattels remained on your hands unsold for want of buyers (*as the case may be*), Therefore, We being desirous that

the said A.B. should be satisfied, his money and interest aforesaid, together with costs incurred upon the present writ, command you that you expose for sale and sell, or cause to be sold, the goods and chattels of the said C.D. by you, in form aforesaid, taken, and every part thereof for the best price than can be gotten for the same, and have the money arising from such sale before Us, in Our said Exchequer Court of Canada, immediately after the execution hereof, to be paid to the said A.B. and have there then this writ.

Witness the Honourable ———, Judge of Our Exchequer Court of Canada, at Ottawa, this ——— day of ———, in the year of Our Lord one thousand nine hundred and ——— and the ——— year of Our reign.

Registrar.

1348. WRIT OF SEQUESTRATION.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D. and others, Defendants.

GEORGE THE FIFTH, &C.:
To the Sheriff ———, Greeting:

Whereas lately, in Our Exchequer Court of Canada, in a certain action there depending, wherein A.B. is plaintiff and C.D. and others are defendants (*or* in a certain matter there depending, intituled, In the matter of E.F. *as the case may be*) by a judgment (*or* order, *as the case may be*) of Our said Court made in the said action (*or matter*) and bearing date the day of ———, 19—, it was ordered that the said C.D. should pay into Court to the credit of the said action the sum of ——— (*or as the case may be*). Know ye, therefore, that We, in confidence of your prudence and fidelity, have given, and by these presents do give to you full power and authority to enter upon all the messuages, lands, tenements and real estate whatsoever of the said C.D., and to collect, receive, and sequester into your hands not only all the rents and profits of the said messuages, lands, tenements and real estate, but also all his goods, chattels and personal estate whatsoever, and therefore We command you that you do, at certain proper and convenient day and hours, go and enter upon all the messuages, lands, tenements and real estate of the said C.D. and that you do collect, take and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels and personal estate and detain and keep the same under sequestration in your hands until the said C.D. shall pay into Court, to the credit

of the said action, the sum of ——— (*or as the case may be*) clear his contempt, and Our said Court make other order to the contrary.

Witness, &c.

1349. WRIT OF POSSESSION.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D., Defendant.

GEORGE THE FIFTH, &c.

To the Sheriff of ———, Greeting:

Whereas by a judgment of Our Exchequer Court of Canada, bearing date the ——— day of ———, 19—, (A.B. recovered) (*or* C.D. was ordered to deliver to) *or* (We recovered) possession of all that (*insert here description of land and premises*) with the appurtenances in your bailiwick: Therefore, We command you that you omit not by reason of any liberty of your county, but that you enter the same, and without delay you cause the said (A.B. *or* Us *when at the instance of the Crown*) to have possession of the said land and premises with all the appurtenances thereof. And in what manner you shall have executed this Our writ make appear to Us in Our said Court immediately after the execution hereof. And have you then there this writ.

Witness the Honourable ———, Judge of Our Exchequer Court of Canada, at ——— this ——— day of ——— in the year of Our Lord one thousand nine hundred and ——— and in the ——— year of Our reign.

Registrar.

1350. WRIT OF DELIVERY.

IN THE EXCHEQUER COURT OF CANADA.

Between A.B., Plaintiff,
and
C.D. and others, Defendants.

GEORGE THE FIFTH, &c.

To the Sheriff ———, Greeting:

We command you that without delay you cause the following chattels that is to say (*here enumerate the chattels recovered by the judgment, for the return of which execution has been ordered to issue*) to be returned to A.B. lately in Our Exchequer Court of Canada recovered against C.D. (*or* which C.D. was ordered to deliver to the said A.B.) in an action in Our said Court. And we further command you that if the said chattels cannot be found in

your bailiwick you distrain the said C.D. by all his lands and chattels in your bailiwick, so that neither the said C.D. nor any one for him do lay hands on the same until the said C.D. render to the said A.B. the said chattels; and in what manner you shall have executed this Our writ make appear to Us at Our said Exchequer Court of Canada, at Ottawa, immediately after the execution hereof, and have you there then this writ.

Witness the Honourable ———, Judge of Our Exchequer Court of Canada, at Ottawa, the ——— day of ——— in the year of Our Lord one thousand nine hundred and ———, and in the ——— year of Our reign.

1351. PETITION TO CONFIRM SCHEME.

IN THE EXCHEQUER COURT OF CANADA.

In the matter of The ——— Railway Company.

To this Honourable Court:

The humble petition of ——— directors of the above named Company, ———, Sheweth:

That on the ——— day of ———, 19—, the directors of the above named company filed in this Court a scheme of arrangement between the above named company and their creditors.

Your petitioners therefore humbly pray that the scheme so filed as aforesaid may be confirmed by the order of this honourable Court. And your petitioners will ever pray, &c.

1352. CERTIFICATE OF FILING SCHEME.

IN THE EXCHEQUER COURT OF CANADA.

In the matter of The ——— Railway Company.

I do hereby certify that a (*printed or written, as the case may be*) scheme of arrangement between the above named company and their creditors, under The Railway Act, R.S 1906, Ch. 37, section 365 was, on the ——— day of ———, 19—, duly filed in the Exchequer Court of Canada, together with the declaration and affidavit required by the said statute (and that a printed copy of such scheme was on the ——— day of ———, 19—, duly filed in the said Court pursuant to the general order of Court made in that behalf.)

Dated, &c.

Registrar.

1353. NOTICE OF FILING PETITION

To Confirm a Scheme.

For Publication.

IN THE EXCHEQUER COURT OF CANADA.

In the matter of The ——— Railway Company.

Notice is hereby given that a petition was on the ——— day of ———, 19—, presented to The Exchequer Court of Canada by the directors of the above named company, praying for the confirmation of a scheme of arrangement between the said company and their creditors, filed in the said Court on the ——— day of ———, 19—, and that the said petition is directed to be heard on the ——— day of ———, 19—, and any person whose interests are affected by such scheme, and who may be desirous to oppose the making of an order for the confirmation thereof under the provisions of The Railway Act, R.S.C. 1906, Ch. 37, should enter an appearance and file a statement of his objections thereto at the office of the Registrar of the said Court on or before the ——— day of ———, 19—, and appear by himself or counsel at the hearing of the said petition. And a copy of the scheme will be furnished to any person requiring the same by the undersigned or at the office of the company at ———, on payment of the prescribed charge for the same.

A. and B. ——— of ——— (Agents for C. and D. of ———).

Solicitors for the petitioners.

1354. ADVERTISEMENT OF SCHEME.

IN THE EXCHEQUER COURT OF CANADA.

In the matter of The ——— Railway Company.

Notice is hereby given, that on the ——— day of ———, 19—, a scheme of arrangements between the above named Company and their creditors (*state here whether the scheme contains or not any provisions for settling the rights of any and what classes of shareholders as among themselves, or for raising additional share or loan capital, and which, and to what extent*) was filed in the Exchequer Court of Canada, and a copy of the said scheme will be furnished to any person requiring the same by the undersigned or at the office of the company at ——— on payment of the prescribed charges for the same.

A. and B. of ——— (Agents for C. and D. of ———).

Solicitors for the Company.

1355. WRIT OF SCIRE FACIAS

For Voiding Letters Patent.

GEORGE THE FIFTH, &C.:

To the Sheriff of the County of Carleton, or any other of Our Sheriffs in the Dominion of Canada, Greeting:

Whereas We lately by Our Letters Patent sealed with the seal of Our Patent Office, in the City of Ottawa, in Our Dominion of Canada, and signed by the Honourable ——— Our Commissioner of Patents (*or as the case may be*), and bearing date the ——— day of ———, A.D. 19—, and registered in Our said Patent Office, at Ottawa aforesaid as No. ——— reciting that whereas A.B. (*residence and occupation*) had petitioned the Commissioner of Patents praying for the grant of a patent for an alleged new and useful ——— (*as the case may be*) a description of which invention is contained in the specification of which a duplicate is thereunto attached and made an essential part thereof, and had elected his domicile at ——— (*as the case may be*) and had also complied with the other requirements of The Patent Act, Chapter 69 of The Revised Statutes of Canada, 1906, did by Our said Letters Patent, grant to the said A.B. his executors, administrators, legal representatives and assigns for the period of ——— years from the date thereof, the exclusive right, privilege and liberty of making, constructing and using and vending to others to be used in Our Dominion of Canada the said invention, subject nevertheless to adjudication before any Court of competent jurisdiction, and to the conditions contained in the Act aforesaid.

And whereas (*set out assignment, if any*).

And whereas E. being desirous, for the reasons hereinafter mentioned to impeach the recited Letters Patent bearing date the ——— day of ———, A.D. 19—, granted to the said A.B. (*if assignment,* and assigned to the said ———) as aforesaid, has obtained a sealed and certified copy thereof, and of the petition, affidavit, specification and drawings relating thereto, and has, in accordance with the provisions in that behalf contained in the said Act, filed the said sealed and certified copies of said letters patent, petition, affidavit, specification and drawings, in the office of the Registrar of Our Exchequer Court of Canada, and the said letters patent and documents aforesaid are now of record in the said Court.

(*Then set out reasons for impeachment, as for example*):

And whereas We are given to understand that Our said Letters Patent bearing date the ——— day of ———, A.D. 19—, and numbered ——— issued to the said A.B. (*if assigned,* and assigned to the said ———) as aforesaid, were and are contrary to the law, in this: that whereas the said A.B. did in the said petition

state that he had invented a certain new and useful ——— (*as the case may be*) not known or used by others before his invention thereof, as set forth in the said specification and drawings accompanying said petition.

And whereas the said A.B. in the said affidavit did swear that he verily believed that he was the inventor of the alleged new and useful ——— (*as the case may be*) described and claimed in the said specification, and did swear that the several allegations contained in the said petition were respectively true and correct.

And whereas We are given to understand and be informed that the said A.B. did not invent the said alleged invention in the said petition and Letters Patent No. ——— mentioned and claimed.

And also, &c., &c.

By reasons and means of which said several premises the said Letters Patent so granted as aforesaid to the said A.B. were, are and ought to be void and of no force and effect in law.

And We, being willing that what is just in the premises should be done, command you Our Sheriff of Our said County of Carleton or other Our said Sheriffs, that you give notice to the said A.B. (or ——— *as the case may be, if assigned*) that before Us in Our said Exchequer Court of Canada he be and appear within fourteen days from the service upon him of a copy of this writ, inclusive of the day of such service, to show if he has or knows anything to say for himself why the said Letters Patent No. ——— as aforesaid so granted to him (*as the case may be*) ought not, for the reasons aforesaid, to be adjudged to be void, vacated, cancelled and disallowed, and further to do and receive those things which Our said Court shall consider right in that behalf, and that you return this writ immediately after the execution thereof, stating how you have executed the same, and the day of the execution thereof.

Witness the Honourable ———, Judge of Our Exchequer Court of Canada, at Ottawa, the ——— day of ——— in the year of Our Lord one thousand nine hundred ——— and in the ——— year of Our reign.

Registrar.

IV. PROCEEDINGS IN ADMIRALTY.

Admiralty Act.

R.S.C. (1906), Ch. 141.

1356. **TITLE OF COURT.**

IN THE EXCHEQUER COURT OF CANADA.

IN ADMIRALTY.

Or (*if instituted in a District Registry*).

IN THE EXCHEQUER COURT OF CANADA.

The Quebec (*or as the case may be*) Admiralty District.

1357. TITLE OF ACTION IN REM.

(*Title of Court.*)

No. ——— (*here insert the number of the action*).
A.B., Plaintiff, against

(a) The Ship ———.
or (b) The Ship ——— and freight.
or (c) The Ship ——— her cargo and freight.
or (*if the action is against cargo only*).
(d) The cargo ex the ship (*state name of ship on board of which the cargo now is or lately was laden*).
or (*if the action is against the proceeds realized by the sale of the ship or cargo*).
(e) The proceeds of the Ship ———.
or (f) The proceeds of the cargo ex the Ship ——— *or as the case may be.*

Action for (*state nature of action, whether for damage by collision, wages, bottomry, &c., as the case may be*).

1358. TITLE OF ACTION IN PERSONAM.

(*Title of Court.*)

No. ——— (*here inesrt the number of the action*).
A.B., Plaintiff against
The owners of the Ship ———, (*or as the case may be*).
Action for (*state nature of action as in preceding form*).

1359. TITLE OF ACTION IN THE NAME OF THE CROWN.

(*Title of Court.*)

No. ——— (*insert the number of action*).
Our Sovereign Lord the King
(*Add, where necessary, in His Office of Admiralty*) against
(a) The Ship ———, (*or as the case may be*),
or (b) A.B., &c. (*the person or persons proceeded against*).
Action for (*state nature of action*).

1360. WRIT OF SUMMONS IN REM.

(*Title of Court and Action.*)

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To the owners and all others interested in the ship ——— (her cargo and freight, &c., *or as the case may be*).

We command you that, within (one week) after service of this writ, exclusive of the day of such service, you do cause an appearance to be entered for you in Our Exchequer Court of Canada in the above-named action; and take notice that in default of your so doing the said action may proceed, and judgment may be given, in your absence.

Given at Ottawa (*or as the case may be*) in our said court, under the seal thereof, this ——— day of ———, 19—.

Memorandum to be Subscribed on the Writ.

This writ may be served within twelve months from the date thereof, exclusive of the day of such date, but not afterwards.

The defendant (*or* defendants) may appear hereto by entering an appearance (*or* appearances) either personally or by solicitor at the registry of the court situate at Ottawa (*or as the case may be*).

1361. WRIT OF SUMMONS IN PERSONAM.

(*Title of Court and Action.*)

GEORGE THE FIFTH, &c.

To C.D., of ———, and E.F., of ———.

We command you that within (one week) after the service of this writ, exclusive of the day of such service, you do cause an appearance to be entered for you in our Exchequer Court of Canada, in the above-named action; and take notice that in default of your so doing the said action may proceed, and judgment may be given in your absence.

Given at Ottawa (*or as the case may be*) in Our said Court, under the seal thereof this ——— day of ———, 19—.

Memorandum to be subscribed on the Writ.

This writ may be served within twelve months from the date thereof, exclusive of the day of such date, but not afterwards.

The defendant (*or* defendants) may appear hereto by entering an appearance (*or* appearances) either personally or by solicitor at the registry of the said court situate at Ottawa (*or as the case may be*).

1362. WRIT OF SUMMONS IN PERSONAM

For Service out of Jurisdiction.

(*Title of Court and Action.*)

To C.D., of ———, E.F., of ———.

We command you that within (*here insert the number of days directed by the Judge ordering the service or notice*) after the service of this writ (*or* notice of this writ, *as the case may be*) on you, inclusive of the day of such service, you do cause an appear-

ance to be entered for you in Our Exchequer Court of Canada, in the above named action, and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Given at Ottawa (*or as the case may be*) in Our said Court, under the seal thereof, this ——— day of ———, 19—.

Memorandum to be subscribed on writ as in previous form.

Indorsement to be made on the Writ before the Issue Thereof.

N.B.—This writ is to be used where the defendant or all the defendants, or one or more defendant or defendants, is or are out of the jurisdiction. When the defendant to be served is not a British Subject, and is not in British Dominions, notice of the writ and not the writ itself, is to be served upon him.

1363. NOTICE IN LIEU OF WRIT

For Service out of Jurisdiction.

(*Title of Court and Action.*)

To C.D. of ———.

Take notice that A.B. of ———, has commenced an action against you C.D. in the Exchequer Court of Canada at Ottawa, (*or* in the ——— Admiralty District, *as the case may be*) by writ of that court, dated the ——— day of ———, A.D. 19—, which writ is indorsed as follows: (*copy in full the indorsements*), and you are required within ——— days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action, and in default of your so doing the said A.B. may proceed therein, and judgment may be given in your absence.

You may appear to the said writ by entering an appearance personally or by your solicitor at the office of the registrar of the said court at Ottawa, (*or* at ——— in the ——— Admiralty District, *as the case may be*).

(Signed) A.B., of ———, &c.,

or X.Y. of Solicitor for A.B.

Indorsements to be Made on the Writ Before Issue Thereof.

(1) The plaintiff claims (*insert description of claim*).

(2) This writ was issued by the plaintiff in person, who resides at (*state plaintiff's place of residence, with name of street and number of house, if any*).

Or, This writ was issued by C.D. of (*state place of business*) solicitor for the plaintiff.

(3) All documents required to be served upon the said plaintiff in the action may be left for him at (*insert address for service within three miles of the registry*).

Where the action is in the name of the Crown:—(1) A.B., &c., claims (*insert description of claim*).

(2) This writ was issued by A.B. (*state name and address of person prosecuting in the name of the Crown, or his solicitor, as the case may be*).

(3) All documents required to be served upon the Crown in this action may be left at (*insert address for service within three miles of the registry*).

1364. INDORSEMENT OF CLAIM.

1. *Damage by collision*:

The plaintiffs as owners of the Ship "Mary" (her cargo and freight, &c., *or as the case may be*) claim the sum of $——— against the ship "Jane" for damage occasioned by a collision which took place (*state where*) on the ——— day of ———, and for costs.

2. *Salvage*:

The plaintiffs, as the owners, master, and crew of the Ship "Mary," claim the sum of $——— for salvage services rendered by them to the Ship "Jane" (her cargo and freight, &c., *or as the case may be*) on the ——— day of ———, 19—, in or near (*state where the services were rendered*) and for costs.

3. *Pilotage*:

The plaintiff claims the sum of $——— for pilotage of the Ship "Jane" on the ——— day of ———, 19—, from (*state where pilotage commenced*) to (*state where pilotage ended*), and her costs.

(4) *Towage*:

The plaintiffs, as owners of the Ship "Mary" claim the sum of $——— for towage services rendered by the said Ship to the Ship "Jane" (*her cargo* and freight, &c., *or as the case may be*) on the ——— day of ———, 19—, at or near (*state where the services were rendered*) and for costs.

(5) *Master's Wages and Disbursements*:

The plaintiff claims the sum of $——— for his wages and disbursements as master of the Ship "Mary" and to have an account taken thereof, and for costs.

(6) *Seamen's Wages*:

The plaintiffs, as seamen on board the ship "Mary" claim the sum of $———, for wages due to them, as follows, and for costs:

To A.B., the mate $——— for two months wages from the ——— day of ———;

To C.D., able seaman $———, &c., &c.,

(and the plaintiffs claim to have an account taken thereof).

(7) *Necessaries, Repairs, &c.*:

The plaintiffs claim the sum of $———, for necessaries supplied (or repairs done, &c., *as the case may be*) to the ship "Mary" at the port of ——— on the ——— day of ———, and for costs (and the plaintiffs claim to have an account taken thereof).

(8) *Possession*:

(a) The plaintiff, as sole owner of the ship "Mary" of the port of ———, claims possession of the said ship.

(b) The plaintiff as owners of 48-64th shares of the ship "Mary" of the port of ———, claims possession of the said ship against C.D. owner of 16-64th shares of the same ship.

(9) *Mortgage*:

The plaintiff under a mortgage dated the ——— day of ———, claims against the ship "Mary" (*or* the proceeds of the ship "Mary," *or as the case may be*) the sum of $——— as the amount due to him for principal and interest, and for costs.

(10) *Claims between Co-Owners*:

(a) The plaintiff as part owner of the ship "Mary" claims against C.D., part owner of the same ship the sum of $——— as part of the earnings of the said ship due to the plaintiff, and for costs, and to have an account taken thereof.

(b) The plaintiff as owner of 24-64th shares of the ship "Mary" being dissatisfied with the management of the said ship by his co-owners, claims that his co-owners shall give bail in the sum of $———, the value of his said shares, for the safe return of the ship to the Dominion of Canada (*or to the District, as the case may be*).

(11) *Bottomry*:

The plaintiff as assignee of a bottomry bond, dated the ——— day of ———, and granted by C.D. as master of the Ship "Mary" of ———, to A.B. at the port of ——— claims the sum of $——— against the Ship "Mary" (her cargo and freight, etc., *or as the case may be*) as the amount due to him under the said bond, and for costs.

(12) *Derelict*:

A.B., claims to have the Derelict Ship "Mary" (*or* cargo, &c., *or as the case may be*) condemned as forfeited to His Majesty in His office of Admiralty.

(13) *Piracy*:

A.B., Commander of H.M.S. "Torch" claims to have the Chinese junk "Tecumseh" and her cargo condemned as forfeited to His Majesty as having been captured from pirates.

(14) *Slave Trade*:

A.B. Commander of H.M.S. "London" claims to have the vessell, name unknown (together with her cargo and 12 slaves), seized by him on the ——— day of ———, 19—, condemned as forfeited to His Majesty, on the ground that the said vessel was at the time

of her seizure engaged in or fitted out for the Slave Trade in violation of existing treaties between Great Britain and Zanzibar (*or* of the Act, 5 Geo. IV., c. 113, *or as the case may be*).

Or C.D., the owner of the ——— vessel ——— (and cargo *or as the case may be*) captured by H.M.S. "London" on the ——— day of ———, 19—, claims to have the said vessel (and cargo, *or as the case may be*) restored to him (together with costs and damages for the seizure thereof).

(15) *Under Pacific Islanders Protection Acts*:

A.B., as Commander of H.M.S. "Lynx," claims to have the British Ship "Mary" and her cargo condemned as forfeited to His Majesty, for violation of the Pacific Islanders Protection Acts, 1872 and 1875.

(16) *Under Foreign Enlistment Act*:

A.B. claims to have the British Ship "Mary" together with the arms and munitions of war on board thereof, condemned as forfeited to His Majesty for violation of the Foreign Enlistment Act, 1870.

(17) *Under Customs Acts*:

A.B. claims to have the Ship "Mary" (*or as the case may be*) condemned as forfeited to His Majesty for violation of (*state Act under which forfeiture is claimed*).

(18) *Recovery of Pecuniary Forfeiture or Penalty*:

A.B. claims judgment against the defendant for penalties for violation of (*state Act under which penalties are claimed*).

1365. AFFIDAVIT OF SERVICE OF A WRIT OF SUMMONS.

(*Title of Court and Action.*)

County of ———.

I, A.B. of ——— in the County of ——— (*calling or occupation*) make oath and say:—

1. That I did on the ——— day of ———, 19—, serve the writ of summons herein by (*here state the mode in which the service was affected, whether on the owner, or on the ship, cargo or freight, &c., as the case may be*), on ——— the ——— day of ———, 19—.

1366. APPEARANCE.

(*1*) *By Defendant in Person.*

(*Title of Court and Action.*)

Take notice that I appear in this action.

Dated this ——— day of ———, 19—.

C.D., Defendant.

My address is ———.

My address for service is ———.

(2) *By Solicitor for Defendant.*

(*Title of Court and Action.*)

Take notice that I appear for C.D. of (*insert address of C.D.*) in this action.

Dated this ——— day of ———, 19—.

Solicitor for C.D.

My place of business is ———.

My address for service is ———.

1367. INDORSEMENT OF SET-OFF OR COUNTERCLAIM.

The defendant (*or, if he be one of several defendants,* the defendant C.D.) owner of the ship "Mary" (*or as the case may be*) claims from the plaintiff (*or* claims to set-off against the plaintiff's claim) the sum of ——— for (*state the nature of the set-off or counter-claim and the relief or remedy required*) and for costs.

1368. AFFIDAVIT TO LEAD WARRANT.

(*Title of Court and Action.*)

I, A.B. (*state name and address*) make oath and say that I have a claim against the Ship "Mary" for (*state nature of claim*).

And I further make oath and say that the said claim has not been satisfied, and that the aid of this court is required to enforce it.

Or, where the Action is in the name of the Crown,

I, A.B., &c., (*state name and address of person suing in the name of the Crown*) make oath and say that I claim to have the Ship "Mary" and her cargo (*or* the vessel, name unknown, *or* the cargo ex the Ship "Mary," &c., *or as the case may be*) condemned to His Majesty:—

(a) As having been fitted out for or engaged in the Slave Trade in violation of (*state Act or Treaty alleged to have been violated*);

Or (b) As having been captured from pirates;

Or (c) As having been found derelict;

Or (d) For violation of (*state Act alleged to have been violated, or as the case may be*).

I further make oath and say that the aid of this court is required to enforce the said claim.

1369. WARRANT.

(*Title of Court and Action.*)

GEORGE THE FIFTH, &c.

To the Marshal of the Admiralty District of ——— (*or* Sheriff of the County of ———, *or as the case may be*). We hereby com-

mand you to arrest the ship ——— (her cargo and freight, &c., *or as the case may be*), and to keep the same under safe arrest, until you shall receive further orders from Us.

Given at ——— in our said court, under the seal thereof, this ——— day of ———, 19—.

Warrant ———.

Take out by ———.

Registrar (*or* District Registrar, *as the case may be*).

1370. CERTIFICATE OF SERVICE

To be Indorsed on the Warrant After Service Thereof.

This warrant was served by (*state by whom and in what mode service was effected*) on ——— the ——— day of ——— 19—.

Marshal of the Admiralty District of ——— (*or* Sheriff of the County of ———, *or as the case may be*).

1371. BAIL BOND.

(*Title of Court and Action.*)

Know all men by these presents that we (*insert names, addreses, sand descriptions of the sureties in full*) hereby jointly and severally submit ourselves to the jurisdiction of the said court, and consent that if the said (*insert name of party for whom bail is to be given and state whether plaintiff or defendant*) shall not pay what may be adjudged against him in the above named action, with costs (*or* for costs, *if bail is to be given only for costs*), execution may issue against us, our heirs, executors and administrators, goods and chattels, for a sum not exceeding (*state sum in letters*) dollars.

This Bailbond was signed by the said ——— and ——— the sureties, the ——— day of ———, 19—, in the registry of the Exchequer Court of Canada (*or as the case may be*). *Signatures of sureties.*

Before me,

Registrar, *or* District Registrar, *or* clerk in the registry, *or* Commissioner to take bail, *or as the case may be.*

1372. COMMISSION TO TAKE BAIL.

(*Title of Court and Action.*)

GEORGE THE FIFTH, &c.

To (*state name and description of Commissioner*), Greeting:

Whereas in the above-named action bail is required to be taken on behalf of (*state name of party for whom bail is to be given, and*

whether plaintiff or defendant) in the sum of (*state sum in letters*) dollars, to answer judgment in the said action.

We, therefore, hereby authorize you to take such bail on behalf of the said ——— from two sufficient sureties, upon the bailbond hereto annexed, and to swear the said sureties to the truth of the annexed affidavits as to their sufficiency, in the form indorsed hereon.

And we command you that upon the said bond and affidavits being duly executed and signed by the said sureties, you do transmit the same, attested by you, to the registry of our said court.

Given at ——— in our said court, under the seal thereof, this ——— day of ———, 19—.

Registrar *or* District Registrar.

Commission to take bail taken out by ———.

Form of Oath to be Administered to Each Surety.

You swear that the contents of the affidavit, to which you have subscribed your name, are true. So help you God.

1373. AFFIDAVIT OF JUSTIFICATION.

(*Title of Court and Action.*)

I, (*state name, address, and description of surety*), one of the proposed sureties for (*state name, address, and description of person for whom bail is to be given*) make oath and say that I am worth more than the sum of (*state in letters the sum in which bail is to be given*) dollars, after the payment of all my debts.

On the ——— day of ———, 19—, the said ——— was duly sworn to the truth of this affidavit at ———. } *Signature of surety.*

Before me,

Registrar, *or* District Registrar *or* Commissioner, *or as the case may be.*

1374. NOTICE OF BAIL.

(*Title of Court and Action.*)

Take notice that I tender the under-mentioned persons as bail on behalf of (*state name, address, and description of party for whom bail is to be given, and whether plaintiff or defendant*) in the sum of (*state sum in letters and figures*) to answer judgment in this action (*or* judgment and costs, *or* costs only, *or as the case may be*).

Names, addresses, and descriptions of Sureties.	Referees.
(1) ———	———
(2) ———	———

Dated this ——— day of ———, 19—.

1375. NOTICE OF OBJECTION TO BAIL.

(Title of Court and Action.)

Take notice that I object to the bail proposed to be given by *(state name, address, and description of surety or sureties objected to)* in the above named action.

Dated the ——— day of ———, 19—.

1376. RELEASE.

(Title of Court and Action.)

GEORGE THE FIFTH, &c.

To the Marshal of the Admiralty District of ——— *(or* the Sheriff of the County of ———, *or as the case may be)*, Greeting:

Whereas by our warrant issued in the above-named action on the ——— day of ———, 19—, we did command you to arrest *(state name and nature of property arrested)* and to keep the same under safe arrest until you should receive further orders from us. We do hereby command you to release the said *(state name and nature of property to be released)* from the said arrest upon payment being made to you of all fees due to and charges incurred by you in respect of the arrest and custody thereof.

Given at ——— in Our said court, under the seal thereof ——— day of ———, 19—.

Release

Taken out by ———.

Registrar *(or* District Registrar).

1377. STATEMENT OF CLAIM

In an Action for Damage by Collision.

(Title of Court and Action.)

Writ issued ———, 19—.

——— day of ———, 19—.

1. Shortly before 7 p.m. on the ——— day of ———, 19—, the brig "Anthes," of 234 tons register, of which the plaintiff, George De Garis, was then owner, while on a voyage from Cardiff to Granville, in France, laden with coals, and manned with a crew of nine hands, all told, was about fifteen miles S.E. half E. from the Lizard Light.

2. The wind at that time was about E.N.E. a moderate breeze, the weather was fine, but slightly hazy, and the tide was about slack water, and of little force. The "Anthes" was sailing under all plain sail, close hauled on the port tack, heading about S.E. and proceeding through the water at the rate of about five knots per hour. Her proper regulation side sailing lights were duly placed and exhibited and burning brightly, and a good look out was being kept on board of her.

3. At the time those on board the "Anthes" observed the red light of a sailing vessel, which proved to be the "Atlantic," at the distance of about from one mile and a half to two miles from the "Anthes" and bearing about one point on her port bow. The "Anthes" was kept close hauled by the wind on the port tack. The "Atlantic" exhibited her green light and shut in her red light, and drew a little on to the starboard bow of the "Anthes," and she was then seen to be approaching and causing immediate danger of collision. The helm of the "Anthes" was thereupon put hard down, but the "Atlantic" although loudly hailed from the "Anthes" ran against and with her stem and starboard bow struck the starboard quarter of the "Anthes" abaft the main rigging, and did her so much damage that the "Anthes" soon afterwards sank, and was with her cargo wholly lost, and four of her hands were drowned.

4. There was no proper lookout kept on board the "Atlantic."

5. Those on board the "Atlantic" improperly neglected to take in due time proper measures for avoiding a collision with the "Anthes."

6. The helm of the "Atlantic" was ported at an improper time.

7. The said collision, and the damage and losses consequent thereon, were occasioned by the negligent and improper navigation of those on board the "Atlantic."

The plaintiff claims:—

1. A declaration that he is entitled to the damage proceeded for.

2. The condemnation of the defendants (and their bail) in such damage and in costs.

3. To have an account taken of such damage with the assistance of merchants.

4. Such further or other relief as the nature of the case may require.

Dated the ——— day of ———, 19—.

Plaintiff.

1378. DEFENCE AND COUNTERCLAIM.

(Title of Court and Action.)

1. The defendants are the owners of the Swedish barque "Atlantic" of 988 tons register, carrying a crew of nineteen hands all told, and at the time of the circumstances hereinafter stated bound on a voyage to Cardiff.

2. A little before 6.30 p.m. of the ——— day of ———, 19—, the "Atlantic" was about fifteen miles S.E. by S. of the Lizard. The wind was E.N.E. The weather was hazy. The "Atlantic" under foresail, fore and main topsails, main top gallant sail, and

jib, was heading about W.S.W., making from five to six knots an hour with her regulation lights only duly exhibited and burning, and a good look-out being kept on board her.

3. In these circumstances the red lights of two vessels were observed pretty close together, about half a mile off, and from two to three points on the starboard bow. The helm of the "Atlantic" was put to port in order to pass on the port sides of these vessels. One, however, of the vessels, which was the "Anthes" altered her course and exhibited her green light, and caused danger of collision. The helm of the "Atlantic" was then ordered to be steadied, but before this order could be completed was put hard-a-port. The "Anthes" with her starboard side by the main rigging struck the stem of the "Atlantic" and shortly afterwards sank, her master and four of her crew being saved by the "Atlantic."

4. Save as hereinbefore admitted, the several statements in the statement of claim are denied.

5. The "Anthes" was not kept on her course as required by law.

6. The helm of the "Anthes" was improperly starboarded.

7. The collision was caused by one or both of the things stated in the fifth and sixth paragraphs hereof, or otherwise by the negligence of the plaintiffs, or of those on board the "Anthes."

8. The collision was not caused or contributed to by the defendants, or by any of those on board the "Atlantic."

And by way of Counterclaim, the defendants say:—They have suffered great damage by reason of the collision.

And they claim as follows:—

1. Judgment against the plaintiff (and his bail) for the damage occasioned to the defendants by the collision and for the costs of this action.

2. To have an account taken of such damage with the assistance of merchants.

3. Such further and other relief as the nature of the case may require.

Dated the ——— day of ———, 19—.

Defendants.

1379. **REPLY.**

(Title of Court and Action.)

The plaintiff denies the several statements contained in the statement of defence and counterclaim (*or* admits the several statements contained in paragraphs ——— and ——— of the statement of defence and counterclaim, but denies the other statements contained therein).

Dated the ——— day of ———, 19—.

Plaintiff.

1380. INTERROGATORIES.

(*Title of Court and Action.*)

Interrogatories on behalf of the plaintiff A.B. (*or* defendant C.D.) for the examination of the defendants C.D. and E.F. (*or* plaintiff A.B., *or as the case may be*).

1. Did not, &c.
2. Have not, &c.

The defendant C.D. is required to answer the interrogatories numbered ———.

The defendant E.F. is required to answer the interrogatories numbered ———.

Dated the ——— day of ———, 19—.

1381. ANSWERS TO INTERROGATORIES.

(*Title of Court and Action.*)

The answers of the defendant C.D. (*or* plaintiff A.B., &c.) to the interrogatories filed for his examination by the plaintiff A.B. (*or* defendant C.D., &c.)

In answer to the said interrogatories I, the above-named C.D. (*or* A.B., &c.) make oath and say as follows:—

1. ———.
2. ———.

&c., &c., &c.

On the ——— day of ———, 19—, the said C.D. (*or* A.B., &c.) was duly sworn to the truth of this affidavit at ———.

Before me, &c.

1382. NOTICE OF MOTION.

(*Title of Court and Action.*)

Take notice that on (*state day of week*) the ——— day of ———, the plaintiff (*or* defendant) will (by counsel, *or* by his solicitor, *if the motion is to be made by counsel or solicitor*) move the judge in court (*or* in chambers, *as the case may be*) to order that (*state nature of order to be moved for.*) (*In a notice of motion to vary a report of the registrar, the items objected to must be specified.*)

Dated the ——— day of ———, 19—.

A.B. Plaintiff, *or*
C.D., Defendant.

1383. NOTICE OF TENDER.

(*Title of Court and Action.*)

Take notice that I have paid into court, and tender in satisfaction of the plaintiff's claim (*or, as the case may be*) (*if the tender is for costs also, add:* including costs) the sum of (*state sum tendered both in letters and figures, and on what terms, if any, the tender is made*).

Dated the ——— day of ———, 19—.

Defendant.

1384. NOTICE ACCEPTING OR REJECTING TENDER.

(*Title of Court and Action.*)

Take notice that I accept (*or* reject) the tender made by the defendant in this action.

Dated the ——— day of ———, 19—.

Plaintiff.

1385. APPOINTMENT TO ADMINISTER OATHS.

(*Title of Court.*)

To (*state name and address of Commissioner*).

I hereby appoint you ——— to be a commissioner to administer oaths in all Admiralty proceedings in this Court.

Dated, &c.

Judge, *or* Local Judge in Admiralty.

1386. FORM OF JURAT.

(*Where Deponent is Sworn by Interpretation.*)

On the ——— day of ———, 19—, the said A.B. was duly sworn to the truth of this affidavit by the interpretation of C.D. who was previously sworn that he was well acquainted with the English and ——— languages (*or as the case may be*) and that he would faithfully interpret the said affidavit at ———.

Before me, &c.

1387. ORDER FOR EXAMINATION OF WITNESSES.

(*Title of Court and Action.*)

On the ——— day of ———, 19—.

Before ——— Judge, &c.

It is ordered that (*state the names of the witnesses so far as it can be done*) witnesses for the plaintiff (*or* defendant) shall be

examined before the Judge (*or* registrar) at (*state place of examination*), on (*state day of week*) the ——— day of ——— instant (*or as the case may be*) at ——— o'clock in the ——— noon.

Registrar *or* District Registrar.

1388. COMMISSION TO EXAMINE WITNESSES.

(*Title of Court and Action.*)

GEORGE THE FIFTH, &c.

To (*state name and address of commissioner,*) Greeting:

Whereas the Judge of our Exchequer Court of Canada, (*or* the local Judge in Admiralty of the Exchequer Court for the Admiralty District of ———) has decreed that a commission shall be issued for the examination of witnesses in the above named action. We, therefore, hereby authorize you, upon the ——— day of ———, 19—, at ———, in the presence of the parties, their counsel, and solicitors, or in the absence of any of them, to swear the witnesses who shall be produced before you for examination in the said action, and cause them to be examined and their evidence to be reduced into writing. We further authorize you to adjourn, if necessary, the said examination from time to time, and from place to place, as you may find expedient. And we command you, upon the examination being completed, to transmit the evidence duly together with this commission, to the registry of our said court at ———.

Given at ——— in our said court under the seal thereof, this ——— day of ———, 19—.

Registrar, *or* District Registrar.

Commission to examine witnesses taken out by ———.

1389. RETURN TO COMMISSION.

(*Title of Court and Action.*)

I, A.B., the commissioner named in the commission hereto annexed, bearing date the ——— day of ———, 19—, hereby certify as follows:—

(1) On the ——— day of ———, I opened the said commission at ———, and in the presence of ——— (*state who were present, whether both parties, their counsel, or solicitors, or as the case may be*), administered an oath to and caused to be examined the under named witnesses who were produced before me on behalf of the (*state whether plaintiff or defendant*) to give evidence in the above named action, viz.:—

(*Here state names of witnesses.*)

(2) On the ——— day of ———, 19—, I proceeded with the examinations at the same place (*or, as the case may be*) and in the

presence of (*state who were present, as above*) administered an oath to and caused to be examined the under-named witnesses who were produced before me on behalf of (*state whether plaintiff or defendant*) to give evidence in the said action, viz.:—(*state names of witnesses*).

(3) Annexed hereto is the evidence of all the said witnesses certified by me to be correct.

Dated the ——— day of ———, 19—.

Commissioner.

1390. SHORTHAND WRITER'S OATH.

You swear that you will faithfully report the evidence of the witnesses to be produced in this action. So help you God.

1391. NOTICE OF TRIAL.

(*Title of Court and Action.*)

Take notice that I set down this action for trial.

Dated the ——— day of ———, 19—.

A.B., Plaintiff,
or C.D., Defendant.

1392. REGISTRAR'S REPORT.

(*Title of Court and Action.*)

To the Honourable the Judge of the Exchequer Court of Canada *or* to the Honourable the Local Judge in Admiralty of the Exchequer Court for the Admiralty Division of ———.

Whereas by your decree of the ———, 19—, you were pleased to pronounce in favour of the plaintiff (*or* defendant) and to condemn the defendant (*or* plaintiff) and the ship ——— (*or as the case may be*) in the amount to be found due to the plaintiff (*or* defendant) (and in costs and you were further pleased to order that an account should be taken, and to refer the same to the registrar (assisted by merchants) to report the amount due:

Now, I do report that I have (with the assistance of *here state names and description of assessors, if any*) carefully examined the accounts and vouchers and the proofs brought in by the plaintiff (*or* defendant) in support of his claim (*or* counterclaim), and having on the ——— day of ——— heard the evidence of (*state names*) who were examined as witnesses on behalf of the plaintiff and of (*state names*) who were examined as witnesses on behalf of the defendant (and having heard the solicitors (*or* counsel) on both sides, *or as the case may be*), I find that there is due to the plaintiff (*or* defendant) the sum of $——— (*state sum in letters and figures*) together with interest thereon as stated in the sche-

dule hereto annexed. I am also of opinion that the plaintiff (*or* defendant) is entitled to the costs of this reference (*or as the case may be*).

Dated ———, 19—.

Registrar (*or* District Registrar).

1393. SCHEDULE ANNEXED TO REPORT.

	Claimed.	Allowed.
No. *Here state as briefly as pos-*.....		
1. *sible the several items of the*.....		
2. *claim with the amount claimed*.....		
3. *and allowed on each item in*.....		
4. *the columns for figures opposite*.....		
5. *the item*		
&c.		
Total		

With interest thereon from the ——— day of ———, 19—, at the rate of ——— per cent. per annum until paid.

Registrar (*or* District Registrar).

1394. COMMISSION OF APPRAISEMENT AND SALE.

(*Title of Court and Action.*)

GEORGE THE FIFTH, &c.

To the Marshal of our Admiralty District of ——— (*or* the Sheriff of, &c., Greeting:

Whereas the judge of our said court (*or* the Local Judge, &c., *as the case may be*) has ordered that (*state whether ship or cargo, and state name of ship, and if part only of cargo, what part*) shall be sold, We, therefore, hereby command you to reduce into writing an inventory of the said (ship *or* cargo, &c., *as the case may be*), and having chosen one or more experienced person or persons to swear him or them to appraise the same according to the true value thereof, and when a certificate of such value has been reduced into writing and signed by yourself and by the appraiser or appraisers, to cause the said (ship *or* cargo, &c., *as the case may be*) to be sold by public auction for the highest price, not under the appraised value thereof, that can be obtained for the same.

And we further command you, as soon as the sale has been completed, to pay the proceeds arising therefrom into our said court, and to file the said certificate of appraisement and an account of sale signed by you, together with this commission.

Given at ——— in our said court, under the seal thereof, this ——— day of ———, 19—.

Registrar (*or* District Registrar).

Commission of appraisement and sale taken out by ———.

1395. ORDER FOR INSPECTION.

(*Title of Court and Action.*)

On the ——— day of ———, 19—.

Before ——— Judge, &c.

The Judge, on the application of (*state whether plaintiff or defendant*) ordered that the ship ——— should be inspected by (*state whether by the marshal or by the assessors of the court, or as the case may be*) and that a report in writing of the inspection should be lodged by him (*or* them) in the registry.

Registrar (*or* District Registrar).

1396. NOTICE OF DISCONTINUANCE.

(*Title of Court and Action.*)

Take notice that this action is discontinued.

Dated the ——— day of ———, 19—.

Plaintiff.

1397. NOTICE TO ENTER JUDGMENT FOR COSTS.

(*Title of Court and Action.*)

Take notice that I apply to have judgment entered for my costs in this action.

Dated the ——— day of ———, 19—.

Defendant.

1398. NOTICE OF MOTION ON APPEAL.

IN THE EXCHEQUER COURT OF CANADA.

In Admiralty

Between A.B., Plaintiff,

and

C.D., Defendant.

Take notice that this Honourable Court will be moved on ——— the ——— day of ———, 19—, or so soon thereafter as counsel can be heard on behalf of the above named plaintiff A.B. (*or* defendant C.D.) that the judgment (*or* order) of the Local Judge in Admiralty for the Admiralty District of ——— made herein and dated the ——— day of ———, 19—, (*or if only part*

of the judgment or order is appealed from say: that so much of the judgment (*or* order) of the Local Judge in Admiralty for the Admiralty District of ——— made herein and dated the ——— day of ———, 19—, as adjudges (*or* directs *or* orders *as the case may be*) that ——— (*here set out the part or parts of the judgment or order which are appealed from*) may be reversed (*or* rescinded) and that (*here set out the relief or remedy, if any, sought*) and that the costs of this appeal, and before the Local Judge in Admiralty may be paid by the ——— to the ———.

Dated, &c.

Yours, &c.,
Solicitor, &c., *or* Agent, &c.

To the above named defendant, (*or* plaintiff) and to ———, his solicitor or agent.

1399. RECEIVABLE ORDER.

Registry of the Exchequer Court of Canada (*or*, for the Admiralty District of ———).

No. ———. ———, 19—.

(*Title of Court and Action.*)

Sir,—I have to request that you will receive from (*state name of person paying in the money*) the sum of ——— dollars on account in the above named action, and place the same to the credit of the account of the Registrar of the Exchequer Court of Canada (*or* for the Admiralty District of ———).

Registrar (*or* District Registrar).

To the Manager of (*state name or style of bank to which the payment is to be made*), *or*

To the Deputy of the Minister of Finance and Receiver-General of Canada.

1400. ORDER FOR PAYMENT OUT OF COURT.

(*Title of Court and Action.*)

I, ———, Judge of the Exchequer Court of Canada (*or as the case may be*) hereby order payment of the sum of (*state sum in letters and figures*) being the amount (*state whether found due for damages or costs, or tendered in the action, or as the case may be*) to be made to (*state name and address of party or solicitor to whom the money is to be paid*) out of the (proceeds of sale of ship, &c., *or as the case may be*) now remaining in court.

Dated the ——— day of ———, 19—.

Witness:

Judge.

Registrar (*or* District Registrar)

1401. NOTICE FOR CAVEAT WARRANT.

(*Title of Court and Action.*)

Take notice that I, A.B., of ——— apply for a caveat against the issue of any warrant for the arrest of (*state name and nature of property*) and I undertake, within three days after being required to do so, to give bail to any action or counterclaim that may have been or may be brought against the same in this court in a sum not exceeding (*state sum in letters*) dollars, or to pay such sum into court.

My address for service is ———.

Dated the ——— day of ———, 19—.

1402. CAVEAT WARRANT.

(*Title of Court and Action.*)

Caveat entered this ——— day of ———, 19—, against the issue of any warrant for the arrest of (*state name and nature of property*) without notice being first given to (*state name and address of person to whom, and address at which notice is to be given*) who has undertaken to give bail to any action or counterclaim that may have been or may be brought in the said court against the said (*state name and nature of property*).

On withdrawal of caveat add:

Caveat withdrawn the ——— day of ———, 19—.

1403. NOTICE FOR CAVEAT RELEASE.

(*Title of Court and Action.*)

Take notice that I, A.B., plaintiff (*or* defendant) in the above named action, apply for a caveat against the release of (*state name and nature of property*).

(*If person applying for the caveat is not a party to the action, he must also state his address and an address for service within three miles of the registry.*)

Dated the ——— day of ———, 19—.

1404. CAVEAT RELEASE.

(*Title of Court and Action.*)

Caveat entered this day of ———, 19—, against the issue of any release of (*state name and nature of property*) by (*state name and address of person entering caveat, and his address for service*).

On withdrawal of caveat, add:—

Caveat withdrawn this ——— day of ———, 19—.

1405. **SUBPŒNA.**

(*Title of Court and Action.*)

GEORGE THE FIFTH, &c.

To ———, Greeting:

We command you ——— that, all other things set aside, you appear in person before the judge (*or* the registrar *or* G.H., a commissioner appointed by an order of our said court) at ——— on ——— the ——— day of ———, 19—, at ——— o'clock in the ——— forenoon of the same day, and so from day to day as may be required, and give evidence in the above named action (*if duces tecum, add*: and that you bring with you and produce (*state the documents*).

And herein fail not at your peril.

Given at ——— in our said court, under the seal thereof this ——— day of ———, 19—.

Subpœna taken out by ———.

1406. **ORDER FOR PAYMENT.**

(*Title of Court and Action.*)

On the ——— day of ———, 19—.

Before ———, Judge, &c. (*or* local Judge of the Admiralty District of ———).

It is ordered that A.B. (plaintiff *or* defendant, &c.) do pay to C.D. (defendant *or* plaintiff, &c.) within ——— days from the date hereof the sum of $——— (*state sum in letters and figures*) being the amount (*or* balance of the amount) found due from the said A.B. to the said C.D. for (*state whether for damages, salvage or costs, or as the case may be*) in the above named action.

Registrar (*or* District Registrar).

1407. **AFFIDAVIT OF VALUE OF SHIP TOTALLY LOST.**

(*Title.*)

I, A.B., of L. (*state trade or employment*) make oath and say as follows:—

1. I was well acquainted with the lost screw steamship X.Y., of L. I inspected her on her completion in ——— 19—, and afterwards at the commencement of the voyage she was performing when she was run down, on the ——— day of ———, 19—.

2. The said steamship X.Y. was built and completed at L. aforesaid, in the month of ———, 19—. She was ——— tons gross register, worked by engines of ——— horse-power, and at the time she was lost she was classed ——— at Lloyds.

3. The value of the said steamship at the time of her loss was $——— at least.

1408. AFFIDAVIT OF LOSS OF PROPERTY

On Board a Ship Totally Lost.

(*Title.*)

I, A.B., of W., in the county of D. (*state employment*) make oath and say as follows:—

1. That I was (*state employment*) on board the X.Y. at the time when she was sunk by the T.

2. The schedule hereunto annexed and marked by me contains a correct list of (*state the nature of the lost articles*) and other articles belonging to me, and on board the said steamship X.Y. at the time she was so sunk as aforesaid.

3. The whole of the said wearing apparel mentioned in the said schedule was entirely lost in the said steamship X.Y.

4. The several amounts set forth in the said schedule were the true value of the articles (opposite to which they are placed) at the time they were lost as aforesaid, to the best of my knowledge, information, and belief.

1409. AFFIDAVIT AS TO AMOUNT OF FREIGHT DUE TO OWNER.

(*Title.*)

I, A.B. of ———, broker, make oath and say as follows:—

1. I am the agent for the owner of the above-named vessel.

2. The said vessel was abandoned at sea in the month of ———, when on a voyage from ——— to ———, and was afterwards brought to ———, where she was taken possession of by my agent on behalf of her owner, and it was arranged with the alleged salvors that she should be brought to ———, which was done.

3. The exhibit hereunto annexed, marked No. 1, is a statement of the freight due upon the cargo laden on board the said vessel on her arrival at the port of ———. The sum of $——— therein mentioned is the gross value of the said freight. The necessary expenses of realizing the said freight in ——— amount to $———, as shown by the said exhibit No. 1, and the expenses incurred at (*port of loading*), amount to $———, making, to be deducted from the said gross value the sum of $———, and the net value of the said freight is $———, and no more.

4. The exhibit hereunto annexed, marked No. 2 is an account of the expenses incurred by the master at (*place to which ship was brought by salvors*) and in bringing the said vessel thence to (*port of discharge*).

1410. AFFIDAVIT AS TO VALUE OF CARGO.

(*Title.*)

I, A.B., of ———, make oath and say as follows:—

1. I am the consignee of the cargo now or lately laden on board the above named ship.

2. At the time when the said vessel was arrested in this action she had on board (*cargo*).

3. In my opinion the outside value of the said cargo at the time of the said arrest was $———, and no more, and if the same were compulsorily sold at the present time I believe that it would not realize more than the said sum of $———.

CHAPTER LIX.

COUNTY COURT—SPECIAL FORMS.

Under the County Courts Act, 10 Edw. VII. (1910), Ch. 30.

1411. CONSENT TO TRIAL IN COUNTY COURT.

Section 21.

IN THE HIGH COURT OF JUSTICE.

Between A.B., Plaintiff,
and
C.D., Defendant.

We, the undersigned solicitors of the above named plaintiff and defendant do hereby agree that the county court of the county of ——— shall have jurisdiction to try this action, under the provisions of section 21 of the County Courts Act, and that this action be transferred for trial to such county court.

Witness our hands this ——— day of ———, 19—.

Plaintiff's Solicitor.

Defendant's Solicitor.

1412. ORDER FOR TRIAL

Of High Court Action in County Court.
Section 92 of the Judicature Act.

IN THE HIGH COURT OF JUSTICE.

(*Formal Parts and Style of Cause.*)

1. It is ordered that this action be tried before the county court of ———.

2. And it is further ordered that the costs of this application be ———.

1413. ORDER FOR TRIAL

Of a County Court Action at a Sitting of the High Court. Section 93 of the Judicature Act.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of an action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of ———, and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for the parties:

1. It is ordered that the above action and the issues therein be tried at the sittings of the high court to be held at ———.

2. And it is further ordered that the costs of this application be ———.

1414. JUDGMENT AFTER TRIAL.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*) J.C.C., of York. } ——— day the ——— day of ———, 19—.

(*Formal Parts and Style of Cause.*)

This action having come on for (trial *or*, the assessment of damages) at the sittings of the County Court of the County of York, holden on the ——— day of ———, in presence of counsel for the plaintiff and defendant (*or if so*, no one appearing for defendant although duly notified) and upon hearing read the pleadings, and upon hearing the evidence adduced, and what was alleged by counsel aforesaid and the (said Court *or*, a jury of the said County (*as the case may be*) having assessed the damages of the plaintiff at the sum of $———.

1. This Court doth order and adjudge that the plaintiff do recover against the defendant ——— sum of $ ———, and his costs to be taxed.

1415. APPEARANCE.

Section 22 (2).

(*Court and Style of Cause.*)

Enter an appearance for the defendant in this action.

The defendant disputes the jurisdiction of this court to try this action, on the ground that the amount claimed is beyond the jurisdiction of the court (*or*, the value of the property in question is beyond the jurisdiction of the court, *or* the amount or value of

the subject-mattter involved is beyond the jurisdiction of the court, *or* the joint stock or capital of the partnership exceeds in amount or value $2,000, *or* the estate of the testator exceeds in value $2,000).

Dated at ———, this ——— day of ———, 19—.

Solicitor for defendant.

The said defendant ——— require ——— a statement of claim to be delivered.

1416. ORDER TRANSFERRING ACTION.

Section 22 (5).

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the defendant, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties, and it appearing that the defendant, in his appearance, stated that he disputes the jurisdiction of the said county court, and that the plaintiff has not exercised the right to have the papers and proceedings in the action transmitted to the high court; (*or*, the defendant desiring to be allowed to question the jurisdiction of the said county court).

1. It is ordered that this action and all proceedings therein be and the same are hereby transferred from the said county court to the high court.

2. And it is further ordered that, if the plaintiff be awarded costs, they shall be taxed according to the scale of the high court.

3. And it is further ordered that the costs of this application be ———.

1417. ORDER TRANSFERRING ACTION.

Section 23.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties, and it appearing that the defendant has

pleaded a set-off (*or* counterclaim) involving matter beyond the jurisdiction of the county court:

1. It is ordered that this action and all proceedings therein, including the said set-off (*or* counterclaim) be and the same are hereby transferred from the said county court to the high court.

2. And it is further ordered that the costs of this application be ———.

1418. ORDER TRANSFERRING ACTION

To Another County Court. Section 25.

In the County Court of the County of ———.

(*Name of Judge.*)

In Chambers. (*Date.*)

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties, and it appearing that this court has not cognizance of this action, but that the county court of the county of ——— has jurisdiction to try the same:

1. It is ordered that this action and all proceedings therein be and the same are hereby transferred to the county court of the county of ———.

2. And it is further ordered that the costs of this application be ———.

1419. ORDER TRANSFERRING ACTION.

Section 29.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties, and it appearing that the debt or damages claimed amount to upwards of $100, and that the action is one fit to be tried in the high court:

1. It is ordered that this action and all proceedings therein be and the same are hereby transferred from the said county court to the high court.

2. And it is further ordered that (*insert terms as to costs, security, etc., as ordered*).

3. And it is further ordered that the costs of this application be ———.

1420. ORDER TRANSFERRING ACTION

From High Court to County Court.
Section 186 (a) of the Judicature Act.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties, and it appearing that this action is of the proper competency of a county (*or* district) court:

1. It is ordered that this action and all proceedings therein be, and the same are hereby transferred from the high court to the county (*or* district) court of the county (*or* district) of ———.

2. And it is further ordered that (*insert here terms as to payment of additional costs incurred by defendant, etc., as ordered*).

3. And it is further ordered that the costs of this application be ———.

1421. ORDER TRANSFERRING ACTION

From Division Court to County Court.
Section 71 of Division Courts Act.

In the County Court of the County of ———.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of an action in the ——— division court in the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties, and it appearing that the defence (*or* counterclaim) pleaded in this action involves matter beyond the jurisdiction of the said division court, and that such defence (*or* counterclaim) is not frivolous or vexatious, and that the same is within the jurisdiction of the county court:

1. It is ordered that this action and all proceedings therein be, and the same are hereby, transferred from the said division court to this court.

2. And it is further ordered (*insert here terms as to payment of additional costs, etc., as ordered*).

3. And it is further ordered that the costs of this application be ———.

1422. ORDER FOR COMMITTAL.

Section 35.

In the County Court of the County of ———.
(*Name of Judge.*) (*Date.*)

Between A.B., Plaintiff, and C.D., Defendant.

Upon motion, etc., by counsel for the ———, and upon reading, etc. (*here set out the evidence read, and proving the contempt alleged, and state the nature of the conduct constituting such contempt*), and this court being of opinion that the above named ——— has, by his conduct as hereinbefore appears, been guilty of a contempt of this court, doth order that the said ——— do stand committed to the common gaol of the county of ——— for his said contempt for the term of ——— months, and that a warrant of attachment for the arrest of the said ——— be forthwith issued.

And this Court doth further order that the said ——— do pay the costs of the ——— of this application and of the said attachment.

1423. WARRANT OF COMMITTAL.

Section 35.

In the County Court of the County of ———.
(*Name of Judge.*) (*Date.*)

Between A.B., Plaintiff, and C.D., Defendant.

To the sheriff of the county of ———, and to all constables and peace officers of the said county, and to the gaoler of the common gaol of the county of ———.

Whereas by an order bearing date the ——— day of ———, 19—, it was ordered that the said ——— should stand committed to prison for contempt of this court:

These are therefor to require you forthwith to arrest and apprehend the said ———, and him safely convey and deliver to the gaoler of the common gaol of the county of ———; and you, the said gaoler, to receive the said ——— and him safely keep in the common gaol aforesaid until the further order of this court.

1424. ORDER CHANGING PLACE OF TRIAL.

In the County Court of the County of ———.

The Master in Chambers. } ——— day, the ——— day
(*or* His Honour Judge ———, } of ———, 19—.
In Chambers.)

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the defendant, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties:

1. It is ordered that the place of trial of this action be changed from the ——— of ——— to the ——— of ———.

2. And it is further ordered that the costs of this application be costs in the cause (*or* costs in the cause to the defendant, *or*, be paid by the plaintiff to the defendant in any event in this cause, *or as may be ordered*).

1425. ORDER OF REFERENCE.

Section 36.

In the County Court, &c.
(*Name of Judge.*)
In Chambers. (*Date.*)
Between A.B., Plaintiff, and C.D., Defendant.

Upon hearing the application of ———, and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the (*state whether all or some, and, if so, which of the questions are to be tried*) in this action be tried by ———.

2. (*To be used in a case where it is not necessary to reserve any questions as to costs or otherwise.*) And it is further ordered that the defendant (*or* the party by whom any amount shall be found by the referee to be due) do pay to the plaintiff (*or*, the party to whom such amount shall be found due) the amount which the referee shall find to be payable, forthwith after the confirmation of the referee's report (*or as the case may require*).

3. And it is further ordered that the costs of this application (*or*, of this action) be (*as may be ordered*).

1426. ORDER STAYING PROCEEDINGS.

Section 43.

In the County Court of the County of ———.
(*Name of Judge.*)
In Chambers. (*Date.*)
Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties:

1. It is ordered that all further proceedings in this action under the judgment (*or* order) made herein on the ——— day of ———, 19—, be stayed for the period of ——— days to enable the above named ——— to appeal from the said judgment (*or* order).

2. And it is further ordered that the costs of this application be ———.

1427. ORDER EXTENDING TIME.

Section 44 (2).

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of the ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitors (*or* counsel) for the parties:

1. It is ordered that the time for setting down the appeal herein from the judgment (*or* order) pronounced herein on the ——— day of ———, 19—, and for giving notice of the setting down of such appeal (*or as the case may be*) be extended for a period of ——— days from this date.

2. And it is further ordered that the certificate of the judge of the said county court issued herein on the ——— day of ———, 19—, be sent back to the said judge for amendment as follows:

3. And it is further ordered that the costs of this application be ———.

1428. CERTIFICATE ON APPEAL.

Section 46 (2).

IN THE HIGH COURT OF JUSTICE.

The Hon. The Chancellor.
The Hon. Mr. Justice ———.
The Hon. Mr. Justice ———.
} ———day the ——— day of ———, 19—.

Between A.B. (Respondent), Plaintiff, and C.D. (Appellant), Defendant.

This is to certify that the appeal of the above named appellant from the judgment of His Honour ———, judge of the county court of the county of ———, pronounced on the ——— day of ———, having come on to be argued before this court on the ——— day of ———, whereupon and upon hearing counsel as well for the appellant as the respondent, this court was pleased to direct that the matter of the said appeal should stand over for judgment, and the same having come on this day for judgment:

It is ordered and adjudged that the said appeal should be and the same was allowed (*or* dismissed) with costs to be paid by the respondent (*or* appellant) to the appellant (*or* respondent) forthwith after taxation thereof.

(*Where the appeal is allowed.*) And it was further ordered and adjudged that (*stating the judgment pronounced in the action in lieu of the judgment which is reversed*).

1429. ORDER FOR PROHIBITION

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitor (*or* counsel) for ———, and it appearing that the said ——— has (*entered an action against*) C.D., in the said court, and that the said court has no jurisdiction in the said (*cause*) or to hear and determine the said (*action*) by reason that (*state facts shewing want of jurisdiction*):

1. It is ordered that the said ——— be and he is hereby prohibited from further proceeding in the said (action) in the said court.

1430. ORDER IN NATURE OF MANDAMUS.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the county court of the county of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of ———, and upon reading the affidavits of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the judge of the county court of the county of ———, or other judge presiding in the said court, do try the above mentioned action now pending in the said court, and do adjudicate upon the same.

2. And it is further ordered that the costs of this application be (*as may be ordered*).

1431. NOTICE OF MOTION FOR ORDER OF CERTIORARI

To County Court or Division Court.

IN THE HIGH COURT OF JUSTICE.

In the matter of a certain action in the ——— Division Court (*or* County Court) of the County of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Take notice that a motion will be made on behalf of A.B. the above-named plaintiff (*or* the above-named defendant C.D.) before

the presiding Judge in Chambers at Osgoode Hall in the City of Toronto on ——— day the ——— day of ———, 19—, at the hour of ——— o'clock in the forenoon, or so soon thereafter as the motion can be heard, for an order that the Judge of the County Court of the County of ——— do forthwith send to the Central Office of the High Court of Justice at Osgoode Hall, Toronto, the proceedings and papers in the said action with all things touching the same, that the Court may cause to be done thereupon what it shall see fit to be done, and for an order staying all further proceedings in the said Division Court (*or* County Court) until further order of the High Court or a Judge thereof; or for such further or other order as may be deemed right.

And take notice that in support of, &c.

Dated, &c.

To the Judge of the County Court of the County of ——— and to C.D. the above-named defendant. } Solicitor for A.B.

1432. AFFIDAVIT IN SUPPORT.

IN THE HIGH COURT OF JUSTICE.

In the matter of a certain action pending in the ——— Division Court of the County of ———.

Between A.B., Plaintiff, and C.D., Defendant.

I, C.D., of the City of ——— in the County of ———, agent, make oath and say as follows:—

1. I am the defendant in the above named action.

2. On the ——— day of ——— a copy of the summons and particulars now produced and shown to me and marked exhibit "A" was served upon me.

3. The damages claimed in the said action amount to more than the sum of $40, and I am advised by my solicitors and verily believe that the case is a fit one to be tried in the High Court for the reason that the trial of the said action will involve the consideration of a number of intricate points of law set forth as follows:—

(*a*)

(*b*)

(*c*) etc.

4. I am advised by my solicitors, and I verily believe that I have a good defence on the merits to the said action.

5. This application is made in good faith and not for the purpose of delaying the trial of the said action but solely for the purpose of securing a proper determination of the said questions.

1433. ORDER OF CERTIORARI—GENERAL.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*) (*Date.*)

In Chambers.

In the matter of ———.

Upon the application of ———, and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that ——— do send to the ——— Office of the ——— Court ——— at ———, (*or as may be necessary,*) forthwith (*or* on the ——— day of ———, 19—) the ———, with all things touching the same, as fully and entirely as they remain in ——— together with this order, that this Court may further cause to be done thereupon what it shall see fit to be done.

1434. ORDER OF CERTIORARI TO COUNTY COURT.

IN THE HIGH COURT OF JUSTICE.

(*Name of Judge.*)

In Chambers. (*Date.*)

In the matter of a certain action pending in the County Court of the County of ———.

Between A.B., Plaintiff, and C.D., Defendant.

Upon the application of ———, and upon reading the affidavit of ——— filed, and upon hearing the solicitor (*or* counsel) for ———:

1. It is ordered that the Judge of the County Court of the County of ——— do forthwith send to the ——— Office of the ——— Court ——— at ———, (*or as may be necessary,*) the proceedings and papers in a certain action in the said County Court between ——— plaintiff and ——— defendant, with all things touching the same, together with this order, that this Court may further cause to be done thereupon what it shall see fit to be done, and no further proceedings are to be taken in said County Court in said action until further order of this Court or a Judge thereof.

2. And it is further ordered (*special terms if any*).

1435. NOTICE OF EXPROPRIATION

Of Right of Way.

The Railway Act, R.S.C. 1906, Ch. 37, Sec. 193.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by The ——— Railway Company of certain lands, being part of lot ———.

Take notice that The ——— Railway Company requires and will take from you, under the provisions of The Railway Act, for the purposes of its railway all your right, title and interest in the lands set forth in the description contained herein in Schedule A.

And take notice that the said company is ready and willing to pay ——— dollars as compensation for such lands and for any damages caused by the exercise of its powers thereon.

Dated at ——— the ——— day of ———, 19—.

Solicitor for the ——— Railway Co.

To ———.

1436. NOTICE OF EXPROPRIATION OF LAND

For Ballast Pits, &c.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by The ——— Railway Company of certain lands, being part of lot ———.

Take notice that the ——— Railway Company requires stone, gravel, earth, sand, water and other material from the lands following, namely: (*describing them*) (*or* set forth in the description contained herein in Schedule A,) for the construction, maintenance and operation of its railway, and will take from you all your right, title and interest in the said lands.

And take notice that the said company is ready and willing to pay ——— dollars as compensation for such lands and for any damages caused by the exercise of its powers thereon.

Dated at ——— the ——— day of ———, 19—.

Solicitor for the ——— Railway Co.

To ———.

1437. CERTIFICATE OF SURVEYOR.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by The ——— Railway Company of certain lands, being part of lot ———.

I, ——— of the ——— of ——— in the county of ——— Provincial Land Surveyor, do hereby certify:

1. That I am a sworn surveyor for the province of ———, and am disinterested in the matter herein referred to.

2. That the land described in the notice of expropriation hereto annexed, being a portion of the land shown on the plan deposited under the provision of section 160 of The Railway Act, is required by The ——— Railway Company for the purposes of its railway.

3. That I know the said lands and the amount of damage likely to arise from the exercise of the powers of the said company, to be exercised pursuant to the said notice of expropriation.

4. That the sum of ——— dollars offered by the said company in its said notice of expropriation is, in my opinion, fair compensation for the land and damage aforesaid.

Dated at ——— this ——— day of ———, 19—.

Provincial Land Surveyor.

1438. NOTICE OF APPLICATION FOR IMMEDIATE POSSESSION.

The Railway Act, Sections 217, 218.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by The ——— Railway Company of certain lands, being part of lot ———.

Take notice that application will be made on behalf of The ——— Railway Company before (the county judge of the county of ———) at (his chambers) in the ——— of ———, on the ——— day of ———, 19—, at the hour of ——— o'clock in the (fore)noon, or so soon thereafter as the application can be heard for a warrant for immediate possession of the lands referred to in the notice of expropriation hereto annexed.

And take notice that upon such application will be read the notice of expropriation hereto annexed, the affidavit of ———, a copy of which is hereto annexed, and such other material as the applicant may be advised.

Dated at ———, this ——— day of ———, 19—.

Solicitor for the ——— Railway Co.

To ———.

1439. AFFIDAVIT ON APPLICATION FOR IMMEDIATE POSSESSION.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by The ——— Railway Company of certain lands, being part of lot ———.

I, ——— of the ——— of ——— in the county of ———, make oath and say:

1. I am the ——— of the ——— Railway Company and have a personal knowledge of the matters herein disposed of.

2. Immediate possession of the lands described in the notice of expropriation hereto annexed is necessary to carry on the construction of the said company's railway and the said company is ready forthwith to proceed with such construction.

3. If the said company does not obtain immediate possession of the said lands serious loss, delay and damage will be caused to the said company in the construction of its railway.

1440. REQUISITION FOR DIRECTION FOR PAYMENT IN

On Application for Warrant.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by the ——— Railway Company of certain lands being part of Lot ——— Concession ——— Township of ——— County of ——— of which lands ——— is the proprietor.

Required a direction to the ——— at ——— to receive ——— Dollars ($———) as deposit pursuant to the Railway Act, Section 218.

Solicitor for The ——— Railway Co.

Approved this ——— day of ———, A.D. 19—.

County Judge of the County of ———.

1441. WARRANT FOR POSSESSION.

In the County Court of the County of ———.

In the matter of The Railway Act, and in the matter of the taking by the ——— Railway Company of certain lands being part of ———.

I, ———, Judge of the County Court of the County of ———.

To the Sheriff of the ——— County of ———, Greeting:

By virtue of the special Acts incorporating the said Company, and of the authority in me vested by The Railway Act, and being satisfied, by affidavit in that behalf, that immediate possession of the land hereinafter described and referred to in a notice served on ——— of the said land, on the ——— day of ———, 19—, is necessary in order to carry on the construction of the Company's railway in that vicinity, with which construction the said Company is ready forthwith to proceed, and the said Company having given security to my satisfaction, by deposit in Court of the sum of ——— dollars ($———), being a sum in my estimation sufficient to cover the probable compensation payable to the said owner ——— and costs of the arbitration.

I command you that without delay, you do put the ——— Railway Company, their agents, contractors and servants, in possession of all and singular th part of Lot ——— Concession ———, Township of ——— County of ———, more particularly described as:

And put down all resistance or opposition thereto, taking with you sufficient assistance for such purpose.

Dated at ——— the ——— day of ———, A.D. 19—.

Given under my hand and the seal of the County Court of the ———.

Judge.

1442. ORDER FOR PUBLICATION

Of Notice of Payment into Court.

IN THE ——— COURT OF ——— .

(*Name of Judge.*) } ——— day the ——— day
In Chambers. } of ———, 19—.

In the matter of The Railway Act, &c.

Upon the application of the ——— Railway upon reading the affidavit of ——— and upon hearing what was alleged by the Solicitor for the applicants.

It is ordered that the notice of payment into Court of the part of the compensation for the lands above described to which ——— a person of unsound mind (not so found) is entitled, be published once a week for two weeks preceding the ——— day of ———, 19—, in the ——— a newspaper published in the Town of ——— in the County of ———, and that a copy thereof be forthwith served upon the Official Guardian.

1443. NOTICE TO INCUMBRANCERS, &c.

The Railway Act, Section 211.

IN THE ——— COURT OF ——— .

In the matter of the ——— Railway Act, &c.

Take notice that the ——— Railway Company in accordance with the provisions of the said Act and an order of this Court made herein on the ——— day of ——— has paid into Court to the credit of this matter the sum of $——— being the compensation agreed to be paid for the lands above described under the agreement made with ——— and ———, together with the sum of $——— being six month's interest in advance on the same.

And take notice that the title of the said Company to the said lands is under the said Act and all persons entitled to the said lands or any part thereof, or claiming to have any lien, charge or incumbrance upon the said lands or any part thereof, or representing or being the husbands of any parties so entitled are hereby called upon to file their claims to the said compensation or any part thereof, in the office of the Senior Registrar of this Court, and all such claims shall be received and adjudged upon by this Court and the proceedings herein shall forever bar all claims to the said lands, or any part thereof, including dower, as well as mortgages or incumbrances upon the same, and this Court shall make such order for the distribution, payment or investment of the said compensation and for the securing of the rights of all parties interested as to right and justice and according to the provisions of the said Act and the Special Act and to law appertain.

Dated in Chambers at Toronto, this ——— day of ———, 19—.

CHAPTER LX.

PROCEEDINGS IN SURROGATE COURTS.

Surrogate Courts Act. 10 Edw. VII. (1910), Ch. 31.

I. LETTERS OF ADMINISTRATION.

(1) *General Forms.*

1444. APPLICATION FOR GRANT OF ADMINISTRATION.

Unto the Surrogate Court of the County (*or* United Counites) of ———.

The petition of A.B., of the ——— of ———, in the County of ———, *spinster*.

Humbly sheweth,

That C.D., late of the ——— of ———, in the County of ———, *merchant*, deceased, died on or about the ——— day of ———, A.D. 19—, at ———, in, etc., and that the said deceased at the time of *his* death, had *his* fixed place of abode at ———, in the said County of ———, (*or* "had no fixed place of abode in Ontario," (*or* "resided out of Ontario") "but had at such time property in the said County of ———.") That the said deceased died a bachelor, without parent, brother, or sister, uncle, or aunt, nephew, or niece (*to be varied according to the circumstances of the case*), and without having left any will, codicil, or testamentary paper whatever, and that your petitioner is the lawful cousin-german and next of kin of the said deceased (*to be varied according to the circumstances of the case*).

That the value of the whole property of the said deceased, which *he* in any way died possessed of or entitled to, is under ——— dollars. That the value of the personal estate and effects is under ——— dollars, and of the real estate is under ——— dollars, and that full particulars and an appraisement of all said property are exhibited herewith and verified upon oath. Wherefore your petitioner prays that administration of the property (*or* of the personal estate and effects, *as the case may be*) of the said deceased may be granted and committed to *her* by this Honourable Court.

Dated the ——— day of ———, A.D. 19—.

1445. NOTICE OF APPLICATION FOR ADMINISTRATION.

In the Surrogate Court of the County of ———.

To the Surrogate Clerk:

Take notice that application has been made to the Surrogate Court of the County of ——— for a grant of Letters of Administration of the property of ———, late of the ——— of ——— in

the County of ———, (*addition*), deceased, who died intestate on or about the ——— day of ———, A.D. 19—, having at the time of his death a fixed place of abode at the ——— of ——— in the said County of ———, by ——— of the ——— of ——— in the County of ———, (*addition*).

Application received the ——— day of ———, A.D. 19—.
This notice mailed the ——— day of ———, A.D. 19—.

Registrar of the said Court.

1446. AFFIDAVIT OF SEARCH FOR WILL.

In the Surrogate Court of the County of ———.

In the Estate of A.B., deceased.

I, C.D., of the ——— of ——— in the County of ———, (*addition*) make oath and say:—

1. That I am the party applying for administration of the property of the said A.B., late of the ——— of ——— in the County of ———, (*addition*), deceased.

2. That I made diligent and careful search in all places where the deceased usually kept his papers and in his depositaries, and in the office of the Registrar of this Court, in order to ascertain whether the deceased had or had not left any Will, but that I have been unable to discover any Will, Codicil or Testamentary Paper, and I verily believe that the deceased died without having left any Will, Codicil or Testamentary Paper whatsoever.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1447. CERTIFICATE OF SEARCH FOR WILL.

ONTARIO.

In His Majesty's Surrogate Court of the County of ———.

I, ———, Registrar of the Surrogate Court of the County of ———, hereby certify that search has been duly made this ——— day of ———, 19—, in the office of the aforesaid Surrogate Court for a will or other testamentary document of a like nature of ———, late of the ——— of ——— in the County of ———, deceased, and that no such document is deposited in this office for safe-keeping.

Registrar of the Surrogate Court
of the County of ———.

1448. ADMINISTRATOR'S OATH.

In the Surrogate Court of the ——— County of ———.

In the Estate of A.B., deceased.

I, C.D., of the ——— of ——— in the County of ——, (*addition*) make oath and say:

1. That ———, late of the ——— of ——— in the County of ———, deceased, died intestate, leaving him surviving his widow (*or as the case may be*).

2. That I am the lawful ——— and one of the next of kin of the said deceased.

3. That I will faithfully administer the property of the deceased, by paying his just debts, and distributing the residue (if any) of his estate according to law; and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased, and render a just and true account of my administration whenever required by law so to do.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1449. AFFIDAVIT OF DEATH AND PLACE OF ABODE

In the Surrogate Court of the County of ———.

In the estate of W.A., deceased.

I, A.B., of the ——— of ———, in the County of ———, ———, make oath and say, that I am (the party applying for administration of the property of the said W.A., deceased.) That said deceased died on or about the ——— day of ———, A.D. 19—, at ——— and that the said deceased, at the time of *his* death, had *his* fixed place of abode at ———, in the said County of ———, ———, (*or* "had no fixed place of abode in Ontario," (*or* "resided out of Ontario, but had at such time property in the said County of ———.")

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1450. AFFIDAVIT OF VALUE OF PROPERTY.

In the Surrogate Court of the County of ———.

In the Estate of A.B., deceased.

I, C.D., of the ——— of ——— in the ——— County of ———, (*addition*), make oath and say:—

1. That I am the executor named in the will (*or* the party applying for administration of the property *as the case may be*) of the said A.B.

2. That the value of the whole property of the said deceased, which he in any way died possessed of or entitled to, and for and in respect to which probate of the said will is (*or* letters of administration are *as the case may be*) to be granted, is under ——— dollars. That the value of the personal Estate and effects is under ——— dollars, and of the Real Estate is under ——— dollars and that full particulars and a true appraisement of all said property are exhibited herewith.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1451. AFFIDAVIT OF VALUE OF REAL ESTATE.

In the Surrogate Court of the County of ———.

In the Estate of A.B., deceased.

Inventory and Valuation of the Real Estate of the said Deceased.

General Description of Property.	Value or Amount.

I, C.D., of the ——— of ———, &c., make oath and say:—

1. That I am ———.

2. That the above is to the best of my knowledge, information and belief, a true Inventory and valuation of the Real Estate of the said deceased at the time of his death, so far as I can at present ascertain.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1452. ADMINISTRATION BOND.

Know all men by these presents, that we, A.B. of &c., C.D. of &c., and E.F. of &c., are jointly and severally held and firmly bound unto ———, Esquire, the Judge of the Surrogate Court of the County of ———, in the sum of ——— dollars, to be paid to the said ———, Esquire, or the Judge of the said Court for the time being; for which payment, well and truly to be made, we bind ourselves and each of us for the whole, our and each of our heirs, executors, and administrators, respectively, firmly by these presents.

Sealed with our seals and dated the ——— day of ——— in the year of our Lord 19—.

The condition of this obligation is such that if the above-named A.B., the administrator of all the property of ———, late of ———, in the County of ———, deceased, (who died on or about the ——— day of ———, 19—) do, when lawfully called on in that behalf, make or cause to be made a true and perfect inventory of all the property of the said deceased which has or shall come into the hands, possession or knowledge of the said A.B., or into the hands or possession of any other person or persons for him, and the same so made do exhibit, or cause to be exhibited, into the Registry of the Surrogate Court of the County of ———, whenever required by law so to do, and the same property, and all other property of the said deceased at the time of his death which at any time after shall come into the hands or possession of the said A.B., or into the hands or possession of any other person or persons for him, do well and truly administer according to law: (that is to say) do pay the debts which the said deceased did owe at his decease, and further do make or cause to be made a true and just account of his said administration whenever required by law, and all the rest and residue of the said property do deliver and pay unto such person or persons respectively as shall be entitled thereto under the provisions of any Act of the Legislature now in force, or that may hereafter be in force in Ontario; and if it shall hereafter appear that any last will or testament was made by the deceased, and the executor or executors therein named do exhibit the same unto the said Court, making request to have it allowed and approved accordingly, if the said A.B. being thereunto required, do render and deliver the said Letters of Administration (approbation of such testament being first had and made) in the said Court, then this obligation to be void and of no effect, otherwise to remain in full force and virtue.

Signed, sealed and delivered in the presence of ———

A.B. [SEAL.]
C.D. [SEAL.]
E.F. [SEAL.]

1453. AFFIDAVIT OF JUSTIFICATION BY SURETIES.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the estate of G.H., Deceased.

We, C.D. of ——— in the County of ———, (*addition*), and E.F. of ——— in he County of ———, (*addition*), severally make oath and say:—

That we are the proposed sureties on behalf of the intended administrator of the property of ———, deceased, in the within bond named, for the faithful administration of the said property of the said deceased; and I, the said C.D., for myself make oath and say that I reside at ——— in the County of ———, and am

worth property to the amount of —— dollars over and above all encumbrances, and over and above what will pay my just debts, and every other sum for which I am now bail, or for which I am liable as surety or endorser or otherwise.

And I, the said E.F., for myself, make oath and say that I reside at ——— in the County of ———, and am worth property to the amount of ——— dollars, over and above all encumbrances, and over and above what will pay my just debts, and every other sum for which I am now bail, or for which I am liable as surety or endorser or otherwise.

The above-named C.D. and E.F. were severally sworn before me the ——— day of ——— A.D. 19—, at ——— in the County of ———.

A Commissioner, &c.

1454. AFFIDAVIT OF EXECUTION OF BOND.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of ———,

Deceased.

I, ———, of ——— in the County of ———, (*addition*), make oath and say:

That I was present and did see the within bond duly executed by A.B., C.D. and E.F., three of the parties named therein; and that the name "———," set and subscribed as a witness thereto, is of the proper handwriting of me, this deponent, and that the same was executed at ——— in the County of ———.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1455. ADMINISTRATOR'S COVENANT.

To obviate necessity of bond, where one applicant is an authorized guarantee company, and the other a private person.

(*Court and Title.*)

Whereas application for administration of the property of ———, late of ———, gentleman, deceased, has been made to the Surrogate Court of the County of ——— by The ——— Guarantee Company, Limited, and ———, widow of the said deceased, jointly;

Now therefore the said The ——— Guarantee Company, Limited, for itself, its successors and assigns, undertakes and agrees for the purpose of obtaining the grant of administration pursuant

to the said application, and for all purposes connected with the administration of the said estate that it The ——— Guarantee Company, Limited, will be responsible for and will duly account for all property of the said deceased which shall come into the hands of either The ——— Guarantee Company, Limited, or the said ———, under and by virtue of the letters of administration so to be granted or in connection with the said estate.

Witness the Seal of The ——— Guarantee Company, Limited, attested by the hands of its proper officer this ——— day of ———, 19—.

Allowed as sufficient.

Dated this ——— day of ———, 19—.

Surrogate Judge for the County of ———.

1456. ADMINISTRATOR'S OATH.

Where Administrator can Depose to all Facts to Lead Grant.

In the Surrogate Court of the County of ———.

In the Estate of A.B.,

Deceased.

I, C.D., of the ——— of ——— in the County of ———, farmer, make oath and say:—

1. That I am the eldest surviving brother of, and the person applying for letters of administration of the property of A.B., in his lifetime of ——— in the County of ———, farmer, but now deceased.

2. That the said deceased died on or about the ——— day of ———, 19—, at ———, and that he at the time of his death had his fixed place of abode at the ——— of ——— in the said County of ———.

3. That the said deceased died a widower, leaving one child (a son named ———, now under the age of twenty-one years, and being about ——— years old), and no other children or descendants of any him surviving.

4. That the value of the whole property of the said deceased which he in any way died possessed of or entitled to, and for and in respect of which letters of administration are to be granted is under ——— dollars.

5. That the value of the personal estate and effects is under ——— dollars, and of the real estate is under ——— dollars, and that full particulars and a true appraisement of all said property are exhibited herewith, and are set forth in Exhibit "A" hereto, which contains a full, true and correct inventory and valuation of the real and personal estate and effects of said deceased at the time of his death, so far as I have been able to ascertain the same.

6. That I have made a diligent and careful search in all places where the deceased usually kept his papers, and in the office of the Registrar of this court, in order to ascertain whether the deceased had or had not left any will; but that I have been unable to discover any will or codicil or testamentary paper, and I verily believe that the deceased died without having left any will or codicil or other testamentary paper whatsoever.

7. That I will faithfully administer the property of the said deceased by paying his just debts, and by distributing the residue (if any) of his estate according to law, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased, and render a just and true account of my administration, when lawfully thereunto required.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

"A."

INVENTORY AND VALUATION ABOVE REFERRED TO.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of ———,
Deceased.

This is Exhibit "A" referred to in the affidavit of ———, sworn before me this ——— day of ———, A.D., 19—.

A Commissioner, &c.

	VALUE.		VALUE.
Household Goods and Furniture		Book Debts, Promissory Notes and other Securities	
Farming Implements		Total Personalty	
Horses		Real Estate, consisting of N.W. half of Lot 24 in 8th Concession of Dover East, 50 acres more or less estimated	
Horned Cattle, Sheep and Swine			
Money secured to estate by life insurance			
Cash on hand or in Bank			

1457. AFFIDAVIT OF ADVERTISEMENT FOR NEXT OF KIN.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,
Deceased.

I, E.F., of the ——— of ———, in the County of ———, solicitor, make oath and say:—

1. I am the solicitor herein of C.D., of the ——— of ———, in the County of ———, farmer, the party applying for letters of administration of the estate of the said A.B., late of the ——— of ———, in the County of ———, brewer, deceased.

2. Acting on behalf of the said C.D., I caused the advertisement, a newspaper clipping of which is hereunto annexed and marked "A," requesting the relations, if any, of the said deceased to apply to me, to be inserted in the ——— morning newspaper published at the ——— of ———, in the County of ———, in the issues of the said newspaper published on the days of ———, and in the issues of the newspaper called the ———, and published on the ——— days of ———.

3. That no application whatever has been made to me, this deponent, in consequence of or in answer to the said advertisements, nor have I been able to obtain any information regarding the relations, if any, of the said deceased.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1458. RENUNCIATION OF ADMINISTRATION.

In the Surrogate Court of the County of———.

In the Estate of A.B.,
Deceased.

Whereas A.B., late of the ——— of ——— in the County of ———, (*addition,*) deceased, died on or about the ——— day of ———, 19—, intestate, and had at the time of his death a fixed place of abode in the said ——— of ———:

And whereas I, C.D., of the ——— of ——— in the County of ———, (*addition,*) am the lawful son and one of the next of kin of the said A.B. (*or as the case may be*):

Now I the said C.D. do hereby expressly renounce all my right and title to letters of administration of the property of the said deceased.

In witness whereof I have hereunto set my hand and seal this ——— day of ———, 19—.

Signed, sealed and delivered
by the said C.D. in the
presence of ———.

1459. AFFIDAVIT OF EXECUTION OF RENUNCIATION.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, ———, of the ——— of ——— in the County of ———, (*addition,*) make oath and say: That I was present and did see the within renunciation of administration duly executed by C.D. one of the parties named therein; and that the name "———"

set and subscribed as a witness thereto is of the proper handwriting of me this deponent, and that the same was executed at ——— in the County of ———.

Sworn, &c.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1460. RENUNCIATION BY GUARDIAN OF INFANT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Whereas, A.B., late of the ——— of ———, in the County of ———, ———, deceased, died on or about the ——— day of ———, 19—, a widower and intestate, and had at the time of his death a fixed place of abode at ———, in the said County of ———, leaving C.D., his natural, lawful and only son and only next of kin, the only person entitled to his estate.

And whereas the said C.D. is now in his infancy, to wit: of the age of three years only; and whereas on the ——— day of ———, 19—, by order of the said Court, G.H., the lawful grandfather and next of kin of the said infant was assigned guardian to the said infant for the purpose of renouncing for him on his part and behalf the letters of administration of the estate of the said deceased.

Now I, the said G.H., do hereby as guardian of the said infant, expressly renounce all his right, title and interest in and to letters of administration of the property of the said deceased.

In witness whereof I have hereunto set my hand and seal this ——— day of ———, in the year of our Lord 19—.

Signed, sealed and delivered
in the presence of

1461. CONSENT OF NEXT OF KIN

To Other Next of Kin Taking a Grant.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Whereas A.B., late of the ——— of ———, in the County of ———, hotel keeper, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, intestate, a widower without child or parent, brother or sister, uncle or aunt, nephew or niece, leaving C.D., and me the undersigned E.F., his lawful cousins-german and only next of kin.

Now I, the said E.F., do hereby expressly consent to letters of

administration of the estate of the said deceased being granted to the said C.D., one of the lawful cousins-german and next of kin of the said deceased aforesaid.

Signed and sealed by the said
E.F. in the presence of

1462. ORDER ASSIGNING GUARDIAN

To an Infant for the Purpose of Taking Administration.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Upon reading the affidavit of C.D., sworn on the ——— day of ———, instant, whereby it appeared that A.B., late of the ——— of ———, in the County of ———, died at ———, a widower and intestate, leaving him surviving E.B. and F.B., his natural and lawful and only children and only next of kin; and that the said E.B. and F.B. are now infants, to wit: the said E.B. of the age of ——— years and upwards, and the said F.B. of the age of ——— years and upwards, but under the age of fourteen years, and therefore by law incapable of acting in their own name or of electing a guardian to act in their behalf, and that there is no testamentary or other lawful guardian of the said E.B. and F.B.

And that the said C.D. is the lawful grandmother and next of kin of the said infants and is ready and willing to accept their guardianship for the purpose of taking letters of administration of the estate of the said A.B., deceased, for the use and benefit of the said infants until one of them shall attain the age of twenty-one years, it is ordered:

That the said C.D. be and she is hereby assigned guardian to the said infants for the purpose aforesaid.

Dated the ——— day of ———, 19—.

1463. ORDER ASSIGNING GUARDIAN

To an Infant for the Purpose of Renouncing.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Upon reading the affidavit of C.D., sworn on the ——— day of ———, 19—, and filed herein, whereby it appeared that A.B., late of the ——— of ———, in the County of ———, deceased, died at ———, a widower and intestate, leaving him surviving E.B., his natural and lawful and only child and only next of kin; and that the said E.B. is now an infant, to wit: of the age of ——— years and under the age of fourteen years and therefore by law incapable of acting in his own name or of electing a guardian to act on his part and behalf, and there is no testa-

mentary or other lawful guardian of the said infant; and that the said C.D. is the lawful grandfather and next of kin of the said infant, and is ready and willing to accept the guardianship of the said infant for the purpose of renouncing for him and on his part and behalf the letters of administration of the estate of the said deceased, it is ordered:

That the said C.D. be and he is appointed guardian to the said infant for the purpose aforesaid.

Dated the ——— day of ———, 19—.

1464. AFFIDAVIT TO LEAD A JOINT GRANT.

Of Administration to Guardians.

In the Surrogate Court of the County of ——— .

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, (*occupation*), make oath and say:—

1. That A.B., late of the ——— of ———, in the County of ———, butcher, deceased, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, a widower, intestate, leaving him surviving E.B., spinster, and F.B., his natural and lawful and only children and only next of kin who are both now in their minority, to wit: the said E.B. of the age of ——— years only and the said F.B. of the age of ——— years only.

2. That the said E.B. and F.B. have in and by an instrument in writing under their respective hands bearing date the ——— day of ———, 19—, duly elected or chosen me this deponent their lawful grandfather and next of kin, and X.Y., of the ——— of ———, in the County of ———, merchant, to be their guardians for the purpose of obtaining letters of administration of the estate of the said deceased to be granted to us for the use and benefit of the said E.B. and F.B., and until one of them shall attain the age of twenty-one years.

3. I have been advised that by law and the practice of the Surrogate Court as the lawful grandfather and next of kin of the said minors duly elected by them, I am entitled primarily and by preference to have the letters of administration of the personal estate of the said deceased for the use and benefit of the said minors granted to myself alone, but I am, notwithstanding, desirous and consenting that the said X.Y., who was a friend of the said deceased, be joined with me in the letters of administration of the estate of the said deceased.

4. For the space of ——— years I have been in an infirm state of health, and to some extent unable to transact business. The said X.Y. is thoroughly conversant with general business, and is also well acquainted with the affairs of the said deceased, having

been a friend of his, and I verily believe that it will be for the benefit and advantage of the estate of the said deceased and of the said minors to have the said X.Y. joined with me in the said lettes of administration.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1465. AFFIDAVIT OF WIDOW TO LEAD A JOINT GRANT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, widow, make oath and say:—

1. That the said A.B., late of the ——— of ———, in the County of ———, (*occupation*), deceased, died at the ——— of ———, in the County of ———, on the ——— day of ———, 19—, intestate, leaving me this deponent his lawful widow and relict, and E.F., G.H. and I.K., his natural and lawful and only children.

2. That I have been advised that, by law, as the lawful widow and relict of the said deceased, I am entitled primarily and by preference, to have the letters of administration of the estate of the said deceased, granted to myself alone, but I am, notwithstanding the same, consenting and desirous, that the said E.F., who is the eldest son of myself and the said deceased, be joined with me in the letters of administration in the estate of the said deceased.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1466. OATH OF GUARDIAN

Administering for the Use of an Infant.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, oil operator, make oath and say:—

That the said A.B., late of the ——— of ———, in the County of ———, tailor, died a widower and intestate, leaving E.B. and F.B., his natural and lawful children and only next of kin, who are now in their infancy, to wit: the said E.B. of the age of ——— years and upwards, and the said F.B. of the age of ——— years and upwards, but respectively under the age of fourteen years.

That there is no testamentary or other lawfully appointed guardian of the said infants, and that I am the lawful ———

and next of kin of the said infants and have been duly assigned their guardian for the purpose of taking letters of administration of the estate of the said deceased for their use and benefit until one of them shall attain the age of twenty-one years.

And that I will faithfully administer the property of the deceased by paying his just debts and distributing the residue, if any, of his estate, according to law, for the use and benefit of the said E.B. and F.B., until one of them shall attain the age of twenty-one years, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and render a just and full account of my administration when thereunto lawfully required.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1467. OATH OF COMMITTEE

Administering for the Use of Lunatic.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, upholsterer, make oath and say:—

That A.B., late of the ——— of ———, in the County of ———, carriage maker, died intestate, a bachelor, leaving E.B., his natural and lawful father and next of kin him surviving.

That the said E.B. is a lunatic, so found by inquisition, and that by an order of the High Court of Justice made on the ——— day of ———, I this deponent was appointed committee of the estate of the said lunatic.

That I will faithfully administer the property of the said deceased for the use and benefit of the said E.B. during his lunacy, by paying his just debts and distributing the residue, if any, of the estate according to law and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and render a just and true account of my administration when thereunto lawfully required.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1468. OATH FOR LIMITED ADMINISTRATION

To Attorney of Administrator in the Testator's Foreign Domicile.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, J.S., of the ——— of ———, in the County of ———, banker, make oath and say:—

That A.B., late of the City of Madrid, in Spain, deceased, died on or about the ——— day of ———, 19—, intestate, domiciled in Spain.

That by an order of the Court of First Instance at Madrid, being the Court of Domicile of the said deceased, E.B., a son of the said deceased was appointed administrator of the estate of the said deceased.

That the said E.B. now resides at the City of Madrid in Spain, and that the said deceased died possessed of a certain mortgage for $2,000 and interest thereon upon lot number ——— in the ninth concession of the Township of ——— in the County of ———.

That I am the lawfully appointed attorney of the said E.B. for the purpose only of administration of the estate of the said A.B., limited only to receiving the moneys payable under the said mortgage and of duly discharging or otherwise releasing the same upon payment thereof, and of enforcing the same.

That I will faithfully administer the property of the said deceased, limited so far only as concerns all the right, title and interest of the deceased in and to the said mortgage and to the said lands therein comprised and the said moneys payable thereunder, and all benefits and advantage to be had and received therefrom, but no further or otherwise, for the use and benefit of the said E.B. and until he shall duly apply for and obtain letters of administration of the estate of the said A.B., deceased, by paying the just debts of the said A.B., deceased, and distributing the residue, if any, of his estate according to law, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and render a just and true account of my administration whenever thereunto lawfully required.

This application is filed on behalf of (the applicant) by G.H., his solicitor.

1469. POWER OF ATTORNEY TO TAKE ADMINISTRATION.

Whereas A.B., late of the ——— of ———, in the County of ———, ———, deceased, died on the ——— day of ———, 19—, intestate, leaving surviving him C.B., his lawful widow and relict.

Now I, the said C.B., at present residing at ———, hereby nominate, constitute and appoint E.F., of the ——— of ———, in the County of ———, to be my lawful attorney for the purpose of obtaining letters of administration of the estate of the said A.B., deceased, to be granted to him by the Surrogate Court

of the County of ———, for my use and benefit and until I shall duly apply for and obtain letters of administration of the said estate to be granted to me.

And I hereby promise to ratify and confirm whatsoever my said attorney shall lawfully do or cause to be done in the premises.

In witness whereof I have hereunto set my hand and seal this ——— day of ———, in the year of our Lord 19—.

Signed, sealed and delivered
in the presence of

1470. OATH FOR CESSATE ADMINISTRATION

To Child on Attaining His Majority.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, auctioneer, make oath and say:—

That A.B., late of the ——— of ———, in the County of ———, insurance agent, deceased, died a widower and intestate.

That on the ——— day of ———, 19—, letters of the estate of the said deceased were granted by the said Court to E.F., the lawful uncle and next of kin and guardian lawfully assigned to me this deponent then an infant (*or* the guardian duly elected by me the deponent then fourteen years of age) the natural and lawful and only child and only next of kin of the said deceased for my benefit and until I should attain the age of twenty-one years.

That on the ——— day of ———, 19—, I attained the age of twenty-one years, by reason of which the said letters of administration have ceased and expired.

That I am the natural and lawful child and only next of kin of the said deceased.

That I will faithfully administer the property of the said deceased by paying his just debts and distributing the residue, if any, of the estate according to law, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and render a just and true account of my administration whenever thereunto lawfully required.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1471. OATH FOR LIMITED ADMINISTRATION.

Section 54.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, confectioner, make oath and say:—

That the said A.B., late of the ——— of ———, in the County of ———, grocer, deceased, died on or about the ——— day of ———, at ———, a widower and intestate, leaving him surviving E.B. and F.B. and G.B., his natural and lawful and only children and only next of kin, the only persons entitled in distribution to his estate.

That the said E.B. and F.B. have respectively duly renounced all their right and title in and to the letters of administration of the estate of the said deceased.

That the said G.B. left this country in the year 19—, and has not since been heard of.

That on the ——— day of ———, 19—, the said Court appointed me this deponent to be the administrator of the estate of the said deceased under and by virtue of the 54th section of the Surrogate Courts Act.

That I will faithfully administer the property of the said deceased by paying his just debts and distributing the residue, if any, of his estate, according to law, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and render a just and true account of my administration when thereunto lawfully required.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1472. OATH FOR ADMINISTRATION DE BONIS NON

To Intestate's Child.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, coachman, make oath and say:—

That A.B., late of the ——— of ———, in the County of ———, deceased, died on or about the ——— day of ———, 19—, at ———, intestate.

That on the ——— day of ———, 19—, letters of administration of his estate were granted out of the said Court to E.B., his lawful widow and relict, who died on the ——— day of ———, 19—, leaving part of the said estate unadministered; and that I am the natural and lawful son and one of the next of kin of the said A.B., deceased.

That I will faithfully administer the unadministered property of the said deceased by paying his just debts and distributing the residue, if any, of his estate according to law; and that I will exhibit under oath a true and perfect inventory of all and singular

the property of the said deceased left unadministered as aforesaid, and render a just and true account of my administration whenever thereunto lawfully required.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1473. ORDER OF JUDGE OF SURROGATE COURT

For Issue of Grant of Letters of Administration or Probate.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Upon reading the application of C.D., and the affidavits and papers filed in support thereof, and the report of the Registrar thereon, I do order that Letters of Administration (*or* Probate) issue to the applicant.

Dated at Chambers this ——— day of ———, 19—.

Surrogate Judge.

1474. LETTERS OF ADMINISTRATION.

CANADA:

Province of Ontario.

In His Majesty's Surrogate Court of the County of ———.

Be it known that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— Letters of Administration of all and singular the property of A.B., late of the ——— of ——— in the County of ———, (*addition*), deceased, who died on or about the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— at ———, intestate, and had at the time of his death a fixed place of abode at the ——— of ——— in the said County of ———, were granted by His Majesty's Surrogate Court of the County of ——— to C.D. of the ——— of ——— in the County of ———, (*addition*), son (*or as the case may be*) of the said intestate, he having been first sworn faithfully to administer the same, by paying his just debts and distributing the residue (if any) of his property according to law, and to exhibit under oath a true and perfect inventory of all and singular the said property and to render a just and true account of his administration whenever required by law so to do.

[SEAL.]

Registrar of the Surrogate Court
of the County of ———.

1475. EXEMPLIFICATION OF LETTERS OF ADMINISTRATION.

CANADA:
Province of Ontario.

In His Majesty's Surrogate Court of the County of ———.

Be it known that, upon search being this day made in His Majesty's Surrogate Court of the County of ———, it plainly appears that on the ——— day of ———, A.D. 19—, Letters of Administration of all and singular the property of ———, late of the ——— of ——— in the County of ———, (*addition or occupation*), who died at ——— on or about the ——— day of ———, 19—, and had at the time of his death a fixed place of abode at ——— in the said County of ———, were granted to ——— of the ——— of ——— in the County of ———, and which said Letters of Administration now remain of record in the said Surrogate Court. The true tenor of the said letters of administration is in the words following, to wit: (*Here the Letters of Administration are to be recited verbatim.*)

In faith whereof these letters testimonial are issued.

Given at the ——— of ——— in the County of ——— this ——— day of ———, 19—.

[SEAL.]

Registrar of the Surrogate Court
of the County of ———.

1476. ORDER REVOKING LETTERS OF ADMINISTRATION.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Upon the application of E.D., and upon reading the ——— of E.B., filed herein, whereby it appears that on the ——— day of ———, 19—, letters of administration of the estate of the said A.B., late of the ——— of ———, in the County of ———, deceased, were granted to C.D., the lawful second cousin of the said deceased, on the suggestion that the said deceased died intestate, a widower, without child or parent, brother or sister, uncle or aunt, nephew or niece, cousin german or cousin german once removed, and that the said C.D. was one of the next of kin of the said deceased, and that it has since been discovered that the said deceased died intestate, a widower, without child or parent, brother or sister, uncle or aunt, nephew or niece, leaving E.B., his lawful cousin german and only next of kin him surviving, and the said letters of administration having been voluntarily brought into and left in the Registry of the said Court, it is hereby ordered:

That the said letters of administration granted to the said C.D. as aforesaid be and the same are hereby revoked and declared to be null and void to all intents and purposes whatsoever.

Dated the ——— day of ———, 19—.

Surrogate Judge.

1477. AFFIDAVIT TO LEAD REVOCATION

Of Grant by Consent.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, grocer, make oath and say:—

1. The said A.B., late of the ——— of ———, in the County of ———, fisherman, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, intestate, a widower without child or parent, brother or sister, uncle or aunt, nephew or niece.

2. I verily believed until I had ascertained to the contrary as hereinafter set out that the said deceased left him surviving no cousin german or cousin german once removed, and, being one of the lawful second cousins of the said deceased, I applied to the said Court for letters of administration of the estate of the said deceased, and the same were granted to me on the ——— day of ———, 19—, in my character of second cousin, on the suggestion that I was one of the next of kin of the said deceased.

3. Since the date last mentioned I have caused inquiries to be made and advertisements to be inserted in the public newspapers for and respecting the relations of the said deceased, and I have thereby ascertained that E.F., of the ——— of ———, in the County of ———, is the lawful cousin german and next of kin of the said deceased.

4. I am therefore desirous that the letters of administration heretofore granted to me shall be revoked and declared null and void by the said Court.

This affidavit is filed on behalf of ——— by G.H., his solicitor.

1478. AFFIDAVIT TO LEAD ALTERATION IN GRANT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ——— (*occupation*), make oath and say:—

1. That on the ——— day of ———, 19—, letters of administration of the estate of the said A.B., late of the ——— of ———, in the County of ———, carriage trimmer, deceased, were granted

by the Surrogate Court of the County of ———, to me this deponent, the natural and lawful father and next of kin of the said deceased.

2. That in the said letters of administration the date of the deceased's death is stated to be the "14th" day of November, —, whereas the true date was the "24th" day of the same month and year, as appears by the certificate of death hereunto annexed.

3. That the error arose by my not observing when the affidavit to lead the grant was read over to me that the wrong day, namely the "14th," had been inadvertently inserted in that document.

4. That I desire that the said letters of administration may be altered by substituting the "24th" for the "14th" in the date of death of the deceased.

This affidavit is filed on behalf of ——— by G.H., his solicitor.

1479. AFFIDAVIT TO LEAD CERTIFICATE

That Bond Given Covers Property in Other Provinces.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, make oath and say:—

1. That A.B., late of the ——— of ———, in the County of ———, farmer, died on or about the ——— day of ———, 19—.

2. That on the ——— day of ———, 19—, letters of administration of the estate of the said deceased were granted to me by the Surrogate Court of the County of ———.

3. That the gross value of the whole estate of the deceased wherever situate in respect of which the said grant was made was then sworn to be under ——— dollars. That the gross value of such real estate was under ——— dollars. That the gross value of the personal estate was under ——— dollars, and that no additional estate has since come to my knowledge.

4. That part of the said estate included in the said sworn valuations amounting to ——— dollars, full particulars of which are set forth in the schedule hereunto annexed is in the Province of Manitoba *(or as the case may be)*.

This affidavit is filed on behalf of ———by G.H., his solicitor.

1480. CERTIFICATE OF REGISTRAR

As To Sufficient Security.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, the undersigned, Registrar of the Surrogate Court of the County of ———, in the Province of ———, do hereby certify that letters of administration of the estate of A.B., late of the ——— of ———, in the County of ———, farmer, deceased, were granted by the Surrogate Court of the County of ———, on the ——— day of ———, to C.D., of the ——— of ———, in the County of ——— and Province of Ontario.

And I further certify that a bond has been given to the Judge of the Surrogate Court of the County of ——— in the sum of ——— dollars, the same being sufficient in amonut to cover the estate of the said deceased in the Province of Manitoba, as well as his estate in the Province of Ontario.

Dated the ——— day of ———, A.D. 19—.

Registrar of the Surrogate Court of the County of ———, in the Province of Ontario.

(SEAL.)

1481. ORDER FOR ALTERATION OF THE NAME

Of the Deceased in a Grant.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

On reading the affidavit of ———, sworn on the ——— day of ———, 19—, referring to the probate of the will (*or* letters of administration with will annexed of the estate) of A.B., late of the ——— of ———, in the County of ———, carpenter, deceased, granted by the Surrogate Court of the County of ———, on the ——— day of ———, 19—, whereby it appeared that in the said probate (*or* letters of administration with the will annexed) the name of the said deceased is given as ———, whereas the full name is ———; it is ordered:

That the said probate (*or* letters of administration with the will annexed) be altered by striking out the name ———, and substituting therefor the other name, ———, in the ——— line thereof.

Dated the ——— day of ———, 19—.

Surrogate Judge.

1482. AFFIDAVIT IN PROOF OF LUNACY.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

We, C.D., of the ——— of ———, in the County of ——— physician, and E.F., of the ——— of ———, in the County of ———, nurse, severally make oath and say:—

I, the said C.D., for myself make oath and say.

1. That for the ——— years now last past I have attended in my professional capacity E.B., formerly of the ——— of ———, in the County of ———, (*occupation*), who is, as I am informed and believe, the natural and lawful father of the said A.B., late of the ——— of ———, in the County of ———, deceased.

2. The said E.B. is a patient under the care of my fellow deponent, the said E.F., in the lunatic asylum at the ——— of ———, in the County of ——— aforesaid.

3. The said E.B. has been for many years and is now a lunatic, and thoroughly incapable of managing himself or his affairs or of doing any act requiring thought, judgment or reflection, and is not likely soon to recover the use of his mental faculties.

And I, the said E.F., for myself make oath and say.

4. That I am a nurse in the said lunatic asylum where the said E.B. is now confined.

5. That the said E.B. has been for ——— years last past confined therein, and has been under my care as a person of unsound mind, and that he is a lunatic and totally incapable of managing himself or his affairs.

This affidavit is filed on behalf of ——— by G.H., his solicitor.

1483. ADVERTISEMENT OF APPLICATION

Where Intestate resided out of Ontario. Sec. 36.

In the Surrogate Court, County of ———.

In the estate of ———, deceased.

Notice is hereby given that after publication of this notice in three successive issues of *The Ontario Gazette*, C.D., of the ——— of ———, in the County of ———, will make application to the Surrogate Court of the County of ——— for letters of administration of the estate of ———, late of the ——— of ———, in the County of ———, in the State of California, but formerly of the Township of ———, in the said County of ———, yeoman, deceased, who died at the said ——— of ———, on the ——— day of ———, A.D. 19—, intestate, having no fixed place of abode in the Province of Ontario at the time of his death, but leaving property to be administered within the said County of ———, in the said Province.

Dated the ——— day of ———, 19—.

Solicitor for the said C.D.,
Number ——— Street, Toronto.

(2.) *Forms Under the Succession Duty Act.*

1484. AFFIDAVIT OF VALUE AND RELATIONSHIP.

This Affidavit is to be made by All Persons Applying for Letters.

THE SUCCESSION DUTY ACT (ONTARIO).

CANADA:

Province of Ontario.

In the Surrogate Court of the County of ———.

In the matter of the estate of ———, late of the ——— of ———, in the ——— of ———, deceased.

I, ———, make oath and say:—

That ——— a ——— the applicant for letters ——— of ———, who died on or about the ——— day of ———, A.D. 19—, domiciled in ———.

That ——— have caused to be filed in the office of the Registrar of the above named Court a petition praying that letters ——— be granted ——— of the said deceased by the said Court.

That ——— have made full, careful and searching enquiry for the purpose of ascertaining what real and personal property and effects the said deceased was possessed of or entitled to, at the time of h death, together with the market value thereof respectively.

That ——— have according to the best of ——— knowledge, information, and belief set forth in the inventory herewith exhibited, marked "A," a full, true and particular account of all the real and personal estate of the said deceased or of which he was possessed, or to which he was entitled in possession or reversion absolutely or contingently or otherwise howsoever at the time of h death, or of which the deceased was competent to dispose or over which he had a general power of appointment, together with the market value as at the date of death of each and every asset forming part of the said real and personal estate and particularized in the said inventory. The gross value of the estate as at date of deceased's death was $———.

That ——— have included in the said inventory every security, debt and sum of money outstanding due or payable to, or standing to the credit of the said deceased at the time of h death, and in estimating the value thereof have included all the interest due, payable, chargeable and accruing due thereon up to the death of the said deceased.

That in the said inventory is included all the property of the said deceased situate out of Ontario as well as the property situate in Ontario.

That to the best of ——— knowledge, information and belief the said deceased did not voluntarily transfer by deed, grant or

gift, made in contemplation of h death, or made, or intended to take effect in possession or enjoyment after h death, any property or any interest therein, or income therefrom to any person in trust or otherwise by reason whereof any person is or shall become beneficially entitled in possession or expectancy in or to the said property or income thereof.

That to the best of ——— knowledge, information and belief the said deceased did not at any time within twelve months previous to the date of h death, transfer any property whatsoever by way of donatio mortis causa or purporting to operate as an immediate gift inter vivos whether by way of transfer, delivery, declaration of trust or otherwise.

That to the best of ——— knowledge, information and belief the said deceased did not at any time previous to the date of h death transfer any property of which property the bona fide possession was not assumed by the donee immediately upon the gift, and thenceforth retained to the entire exclusion of the donor or any benefit to ——— by contract or otherwise.

That to the best of ——— knowledge, information and belief, the said deceased did not transfer or cause to be transferred to or vested in h self and any other person jointly any property to which h — was absolutely entitled by purchase or investment or in any other manner whatsoever so that the beneficial interest therein or in some part thereof passed or accrued by survivorship on h death to such other person.

That to the best of ——— knowledge, information and belief, the said deceased was not at the time of h death a party to any past or future settlement, including any trust whether expressed in writing or otherwise, whether made for valuable consideration or not, as between the settlor and any other person, and not taking effect as a will, whereby an interest in such property or the proceeds of the sale thereof for life, or any other period determinable by reference to death, was reserved expressly or by implication to the deceased, or whereby the deceased reserved to h self the right by the exercise of any power to restore to h self or to redeem the absolute interest in such property or the proceeds of the sale thereof, or otherwise re-settle the same or any part thereof.

That to the best of ——— knowledge, information and belief no annuity, contract or insurance or other interest had been purchased or provided by the said deceased either by h self alone, or in concert, or by arrangement with any other person, except as set out in the said inventory.

That ——— have in the schedule marked Exhibit "B" set forth the names of the several persons to whom the property of the said deceased will pass, the degrees of relationship, if any in

which they stand to the deceased, their addresses so far as ——— can ascertain them, and the nature and value of the property passing to each of these persons respectively.

This affidavit is filed on behalf of the applicant by ———, solicitor.

1485. **SCHEDULE A.**

In the Surrogate Court of the ——— of ———.

THE SUCCESSION DUTY ACT (ONTARIO).

In the matter of ———, deceased, late of the ——— of ——— in the Count of ———.

Real Estate.

Give short description of each parcel or lot with dimensions for purposes of identification	Fair market value of property
Total....	

Moneys Secured by Mortgage.

Name of Mortgagor.	Short description of land.	Other particulars, including date, principal, payments on account, rate of interest, and date from which interest has been accruing to date of death.	Principal.	Interest.	Total.
			$ c.	$ c	$ c.
		Total....			

Securities for Money, Including Life Insurance and Cash on Hand and in Bank.

Name of company or otherwise.	Head office of company or residence of persons.	Other particulars as above.	Principal.	Interest.	Total.
			$ c.	$ c.	$ c.
		Total....			

Book Debts and Promissory Notes, Etc.

Name of Debtor or Payer.	Address (Ontario or foreign state or country).	Particulars, including date due, principal, payments on account, rate of interest, and date from which interest has been accruing to date of death.	Principal.	Interest.	Total.
			$ c.	$ c.	$ c.
		Total....			

Bank and Other Stocks.

Number of shares	Name of Company	Kind of stock—common or preferred	Amount paid up	Par value	Market value
		Total..			

Miscellaneous Assets Not Hereinbefore Mentioned.

Give full particulars here.	
Total....	

Summary.

	$ c.	$ c.
Household Goods and Furniture		
Farming Implements, &c.		
Stock in Trade of Business or Industrial Concern.		
Goodwill of Business or Industrial Concern....		
Horses		
Horned Cattle		
Sheep and Swine		
Book Debts and Promissory Notes		

Moneys secured by Mortgage .....
Bank and other stocks .....
Securities for Money, including Life Insurance and Cash on Hand and in Bank .....
Farm Produce of all kinds .....
Miscellaneous Assets not hereinbefore mentioned.
Real Estate .....

Total .....

This is Schedule "A" referred to in the affidavit of value and relationship of ——.

Sworn before me on the ——— day of ———, A.D. 19—.

A Commissioner, etc.

1486. SCHEDULE B.

In the Surrogate Court of the ——— Count of ———.

THE SUCCESSION DUTY ACT (ONTARIO)

In the matter of the estate of ———, deceased, late of the ——— of ——— in the ——— Count of ———.

NAME.	RELATIONSHIP.	ADDRESS.	PROPERTY PASSING.	VALUE.

This is Schedule "B" referred to in the affidavit of value and relationship ——— of ———.

Sworn to on the ——— day of ———, A.D. 19—.

A Commissioner, &c.

1487. SHORT AFFIDAVIT UNDER SUCCESSION DUTY ACT.

THE SUCCESSION DUTY ACT (ONTARIO).

CANADA:
Province of Ontario.

In the Surrogate Court of the County of ———.

In the matter of the estate of ———, late of the ——— of ———, in the County of ———, deceased.

I (*or* we), ———, make oath and say:—

That ——— a ——— the applicant for letters ——— of the above named ———, who died on or about the ——— day of ———, 19—, domiciled in ———.

That ——— have according to the best of ——— knowledge, information and belief set forth in the inventory herewith exhibited, marked "A." a full, true and particular account of all the real and personal estate of the said deceased situate outside as well as within the Province of Ontario or of which the said deceased was possessed or to which he was entitled at the time of h death either in possession, remainder or reversion absolutely, contingently or otherwise howsoever, together with the market value as at the date of death of each and every asset, and the gross value thereof did not excess the sum of $5,000. The said inventory includes all the real and personal estate of which the deceased was competent to dispose or over which the deceased had a general power of appointment.

That the said deceased did not so far as ——— have been able to ascertain after a careful and searching investigation of his affairs make any gift, transfer, delivery, declaration of trust, settlement, deed, or other instrument of appointment, purchase or investment of annuity, contract of insurance, or other interest or other disposition of any kind whatsoever within the meaning of section 7 of the Succession Duty Act, except ——— (*give particulars of gifts or other dispositions*).

That ——— have in the Schedule herewith exhibited, marked "B," set forth the names of the several persons to whom the property of the said deceased will pass, the degrees of relationship, if any, in which they stand to the deceased, their addresses so far as ——— can ascertain them, and the nature and value of the property passing to each of these persons respectively.

This affidavit is filed on behalf of the applicant for letters by ———, solicitor.

1488. NOTICE OF APPLICATION FOR LETTERS.

THE SUCCESSION DUTY ACT.

In the Surrogate Court of the County of ———.

In the matter of the estate of ———, deceased. (*Strike out the irrelevant words.*)

Notice is hereby given that application for letters probate, of administrations, with the will annexed, has been received as herein set forth:

Name of deceased .....
Date of death .....
Domicile at death .....
Name or Names
of applicant } .....
or applicants } .....

Name of applicant's solicitor .....
Value of assets in Ontario .....
Value of assets, if any, elsewhere than in Ontario .....
Dated at ———, ——— day of ———, 19—.
The Hon. ———
Surrogate Registrar.
The Treasurer of the Province of Ontario.

1489. BOND BY APPLICANTS FOR LETTERS.

THE SUCCESSION DUTY ACT.

In the Surrogate Court of the ———.
In the matter of the estate of ———, deceased.

Know all men by these presents that we ——— of the ——— of ———, in the ——— Count of ———, of the ——— of ———, in the Count of ———, of the ——— of ———, in the County, of ———, are jointly and severally bound unto His Majesty the King in the sum of $———, to be paid to the Treasurer of the Province of Ontario for the time being, for which payment well and truly to be made we bind ourselves and each of us for the whole and our and each of our heirs, executors and administrators firmly by these presents.

Sealed with our seals. Dated the ——— day of ———, in the year of our Lord A.D. 19—.

The condition of this obligation is such that if the above-named ——— the ——— of all the property of ——— late of the ——— of ———, in the County of ———, deceased, who died on or about the ——— day of ———, A.D. 19—, do well and truly pay or cause to be paid to the Treasurer of the Province of Ontario for the time being, representing His Majesty the King in that behalf, any and all duty to which the property, estate and effects of the said deceased coming into the hands of the said ——— may be found liable under the provisions of the Succession Duty Act, within eighteen months from the date of the death of the said deceased or such further time as may be given for payment thereof under section 13 of the Succession Duty Act or such further time as he may be entitled to otherwise by law for payment thereof then this obligation shall be void and of no effect, otherwise the same to remain in full force and virtue.

Signed, Sealed and Delivered in
the presence of

1490. AFFIDAVIT OF JUSTIFICATION.

Count of ———.

To Wit:

I, ———, one of the sureties in the annexed bond named, make oath and say as follows:—

(1) I am seised and possessed to my own use of property in the Province of Ontario, of the actual value of ——— dollars, over and above all charges upon and incumbrances affecting the same.

(2) I am worth the sum of ——— dollars, over and above my just debts and any sum for which I am liable as surety or otherwise, except upon the said bond.

(3) My post office address is as follows:—

1491. AFFIDAVIT OF EXECUTION.

Count of ———:

To Wit.

I, ———, of ——— in the Count of ———, make oath and say as follows:—

(1) I am the person whose name is subscribed to the annexed bond as the attesting witness to the execution thereof, and the signature ——— set and subscribed thereto, as such attesting witness, is of my proper handwriting, and my name and addition are correctly above set forth.

(2) I was present and did see the said bond duly signed and executed by ———, therein named.

(3) I am well acquainted with the said ———.

1492. DIRECTION TO SHERIFF TO MAKE VALUATION.

THE SUCCESSION DUTY ACT.

In the Surrogate Court of the ———.

In the matter of the estate of ———, deceased.

To the Sheriff of ——— Count of ———.

At the request of the Treasurer of the Province of Ontario, I hereby direct that you do make a valuation and appraisement of all property of the deceased and report to me the result of such valuation and appraisement forthwith after making the same.

Dated at ———, this ——— day of ———, A.D. 19—.

1493. NOTICE BY SHERIFF.

THE SUCCESSION DUTY ACT.

In the Surrogate Court of the ———.

In the matter of the estate of ———, deceased.

To ———.

Take notice that by an order made by the Registrar of the Surrogate Court, of the ——— on the ——— day of ———, 19—, I have been directed to make a valuation and appraisement of the property which the said ——— died seised or possessed of or entitled to, and further take notice that pursuant to the said order, I will on the ——— day of ———, at ——— of the clock, in the ——— noon, at ———, proceed to make such valuation and appraisement, of which all parties are required to take notice and govern themselves accordingly.

Dated the ——— day of ———, A.D. 19—.

Sheriff of the ——— of ———.

1494. REPORT OF SHERIFF.

THE SUCCESSION DUTY ACT.

In the Surrogate Court of the ———.

In the matter of the estate of ———, deceased.

To the Judge of the said Surrogate Court:

Pursuant to an order made in this matter and dated the ——— day of ———, A.D. 19—, directing me to make a valuation and appraisement of the property which the above-named deceased died possessed or seised of or entitled to, having duly notified all parties (*or as the case may be*) entitled thereto, I proceeded in the presence of ——— to make an appraisement and valuation of said property at its fair market value, and do value and appraise the same at the sum of $——— as appears from the schedule hereto annexed.

Dated the ——— day of ———, A.D. 19—.

Sheriff of ———.

1495. ORDER OF JUDGE.

THE SUCCESSION DUTY ACT.

In the Surrogate Court of the ———.

In the matter of the estate of ———, deceased.

It appearing to me that there is duty unpaid accruing under the Succession Duty Act, in respect of the property of the above deceased, and that the same has not been paid, I do hereby order and direct that ——— do appear before this Court at ——— on the ——— day of ———, 19—, at ——— of the clock in the

——— noon, to shew cause why he should not forthwith pay to the Treasurer of the Province of Ontario the sum of ———, being duty payable to said Treasurer in respect of the property of the above deceased under the said the Succession Duty Act, and why such payment should not be enforced according to the practice in or upon the enforcement of a judgment of the High Court.

1496. CERTIFICATE OF DISCHARGE.

THE SUCCESSION DUTY ACT (ONTARIO).

In the matter of the estate of ———, late of ———, in the ——— Count of ———, deceased.

This is to certify that the full amount of Succession Duty payable on the estate of the above-named deceased as set out in the affidavits and papers filed in the Succession Duty Office has been paid and the property therein set forth is therefore discharged from any further claim to Succession Duty.

This certificate is given under the terms and subject to the conditions of Section 12 of the Succession Duty Act.

Dated at Toronto, this ——— day of ———, 19—.

Countersigned

Provincial Treasurer.

Solicitor to the Treasury.

II. LETTERS OF ADMINISTRATION WITH WILL ANNEXED.

Note.—For affidavits, &c., required under the Succession Duty Act, see previous forms.

1497. APPLICATION FOR ADMINISTRATION WITH WILL ANNEXED.

No Executor Named in Will.

Unto the Surrogate Court of the County of ———.

The petition of A.B. of the ——— of ——— in the County of ———, farmer, humbly showeth:

That C.D., late of the ——— of ——— in the County of ———, merchant, deceased, died on or about the ——— day of ———, 19—, at ——— in the County of ———, and that the said deceased at the time of his death had his fixed place of abode at the ——— of ——— in the said County of ———:

That the said deceased in his lifetime duly made his last will and testament bearing date the ——— day of ———, 19— (and codicil thereto bearing date the ——— day of ———, 19—:)

That no executor is named in the said will (*or* codicil).

That your petitioner is the residuary legatee (*or as the case may be*) named in the said will (*or* codicil):

That the value of the whole property of the said deceased which he in any way died possessed of or entitled to and for and in respect to which probate of the said will (and codicil) is to be granted is under ——— dollars:

That the value of the personal estate and effects is under ——— dollars and of the real estate is under ——— dollars, and that full particulars and an appraisement of all said property are exhibited herewith and verified upon oath.

Wherefore your petitioner prays that administration with the said will annexed of the property of the said deceased may be granted and committed to him by this Honourable Court.

Dated this ——— day of ———, 19—.

1498. APPLICATION FOR ADMINISTRATION WITH WILL ANNEXED.

Where Executor Renounces Probate.

Unto the Surrogate Court of the County of ———:

The petition of A.B. of the ——— of ——— in the County of ———. (*addition*) humbly showeth:

That C.D. late of the ——— of ——— in the County of ———, merchant, deceased, died on or about the ——— day of ———, 19—, at ——— in the County of ———, and that the said deceased at the time of his death had his fixed place of abode at the ——— of ——— in the said County of ———.

That the said deceased in his lifetime duly made his last will and testament bearing date the ——— day of ———, 19— (and codicil thereto bearing date the ——— day of ———, 19—).

That E.F. the executor named in the said will has by deed hereunto annexed duly renounced all right and title to the probate and execution of the said will (and codicil).

That your petitioner is (*state character in which applicant claims*).

That the value of the whole property devolving under the said will of the said deceased, which he in any way died possessed of or entitled to and for and in respect to which letters of administration with will annexed are to be granted, is under ——— dollars.

That the value of the personal estate and effects is under ——— dollars and of the real estate is under ——— dollars, and that full particulars and an appraisement of all said property are exhibited herewith and verified upon oath.

Wherefore your petitioner prays that administration with the said will and codicil annexed of the property of the said deceased may be granted and committed to him by this Honourable Court.

Dated this ——— day of ———, 19—.

1499. NOTICE OF APPLICATION FOR ADMINISTRATION
With Will Annexed.

In the Surrogate Court of the County of ———.
To the Surrogate Clerk:

Take notice that application has been made to the Surrogate Court of the County of ——— for a grant of Letters of Administration with the will and codicil (*or* codicils) annexed, the said will bearing date the ——— day of ———, A.D. 19—, and the said codicil (*or* codicils) bearing date the ——— day of ———, A.D. 19—, of ——— late of ——— in the County of ———, (*addition*), deceased, who died on or about the ——— day of ———, A.D. 19—, having at the time of his death a fixed place of abode at ——— in the said County of ———, (*or* no fixed place of abode in Ontario *or* residing at the time of his death out of Ontario but having at such time property in the said County of ———,) by A.B. of the ——— of ——— in the County of ———, the residuary legatee (*or as the case may be*) named in the said will (*or* codicil) (*or* by J.P. the solicitor of A.B. the residuary legatee named in the said will *or* codicil), no executor having been named in said will (*or* codicil).

Application received the ——— day of ———, A.D. 19—.
This notice mailed the ——— day of ———, A.D. 19—.

Registrar of said Court.

1500. ADMINISTRATOR'S OATH.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ——— in the County of ———, (*addition*), make oath and say:—

1. That I believe this paper writing hereto annexed, marked with the letter "A," to contain the true and original last Will and Testament of A.B., late of the ——— of ——— in the County of ———, and that E.F., the Executor therein named, is dead (*or* has renounced all his right and title to the probate and execution of the said Will, *or as the case may be*).

2. And that I am the residuary legatee in trust named therein (*or as the case may be*).

3. And that I will faithfully administer the property of the said deceased according to the tenor of his Will by paying his just debts and the legacies contained in his will, so far as the same shall thereto extend and the law bind me, and distributing the residue (if any) of the said estate according to law; and that I will exhibit under oath a true and perfect inventory of all and

singular the property of the said Testator and render a just and due account of my Administration whenever required by law so to do.

This affidavit is filed on behalf of the applicant by ——— solicitor.

1501. ADMINISTRATION BOND WITH WILL ANNEXED.

Know all me by these presents, that we, A.B. of the, &c., C.D. of the, &c., and E.F. of the, &c., are jointly and severally held and firmly bound unto ———, the Judge of the Surrogate Court of the County of ———, in the sum of ——— dollars to be paid to the said ——— or the Judge of the said Court for the time being; for which payment, well and truly to be made, we bind ourselves and each of us for the whole, our and each of our heirs, executors and administrators, respectively, firmly by these presents. Sealed with our seals and dated the ——— day of ——— in the year of our Lord 19—.

The condition of this obligation is such that if the above-named A.B., the administrator of the property of ———, late of the ——— of ——— in the County of ———, deceased, (who died on or about the ——— day of ———, 19—), do, when lawfully called on in that behalf, make or cause to be made a true and perfect inventory of all and singular the property of the said deceased which has or shall come into the hands, possession or knowledge of the said A.B., or into the hands or possession of any other person or persons for him, and the same so made do exhibit or cause to be exhibited into the Registry of the Surrogate Court of the ——— whenever required by law so to do, and the same property and all other the property of the said deceased at the time of his death which at any time after shall come into the hands or possession of the said A.B., or into the hands or possession of any other person or persons for him, do well and truly administer according to law; (that is to say) do pay the debts which the said deceased did owe at his decease, and then the legacies contained in the said Will annexed to the said Letters of Administration to the said A.B. committed, so far as such property will thereunto extend and the law bind him, and further do make, or cause to be made, a full, true and just account of his said administration whenever required by law, and all the rest and residue of the property shall deliver and pay unto such person or persons as shall be by law entitled thereto; then this obligation to be void and of no effect, or else to remain in full force and virtue.

Signed, sealed and delivered in the presence of

A.B. [SEAL.]
C.D. [SEAL.]
E.F. [SEAL.]

Note.—Affidavits of execution and of justification must be attached.

1502. LETTERS OF ADMINISTRATION WITH WILL ANNEXED.

CANADA:
Province of Ontario.

In His Majesty's Surrogate Court of the County of ———.

Be it known that ——— late of the ——— of ——— in the County of ———, deceased, who died on or about the ——— day of ———, 19—, at ———, and who at the time of his death had a fixed place of abode at the ——— of ——— in the said County of ———, (*or* had no fixed place of abode in Ontario, *or* resided out of Ontario but had at such time property in the said County of ———), made and duly executed his last will and testament (with codicils) and did therein name ——— of the ——— of ——— in the County of ——— (*addition*), executor thereof (*or* named no executor therein), a true copy of which said last will and testament is hereunder written (*or* true copies of which said last will and testament (and codicils) are hereunder written); and be it further known that on the ——— day of ———, 19—, letters of administration with the said will (and codicils) annexed of all and singular the property (*or as the case may be if grant limited*) of the said deceased, were granted by His Majesty's Surrogate Court of the County of ——— to ——— of the ——— of ——— in the County of ———, (*insert the character in which the grant is taken, and if the executor has renounced, state it*), he the said ——— having previously been sworn well and faithfully to administer the same according to the tenor of the said will, by paying the just debts of the deceased and the legacies contained in his will (*or* will and codicil), so far as the same shall thereunto extend and the law bind him, and by distributing the residue (if any) of the property according to law, and to exhibit under oath a true and perfect inventory of all and singular the property of the said deceased, and to render a true and just account of his administration whereever required by law so to do.

[SEAL.]

Registrar of the Surrogate Court of
the County of ———.

III. LETTERS PROBATE.

1503. PETITION FOR PROBATE OF WILL BY EXECUTOR.

Unto the Surrogate Court of the County (*or* United Counties) of ———.

The petition of A.B. of the ——— of ——— in the County of ———, farmer, humbly showeth.

That C.D., late of the ——— of ——— in the County of ———, farmer, deceased, died on or about the ——— day of ———, 19—,

at ——— in the County of ——— and that the said deceased at the time of his death had his fixed place of abode at the ——— of ——— in the said County of ——— (*or* resided out of Ontario but had at such time property in the said County of ———).

That the said deceased in his lifetime duly made his last will and testament bearing date the ——— day of ———, 19—, (and codicil thereto bearing date the ——— day of ———, 19—).

That your petitioner is the executor named in the said will (*or* codicil).

That the value of the whole property of the said deceased which he in any way died possessed of or entitled to, and for and in respect to which probate of the said will (and codicil) is to be granted, is under ——— dollars, that the value of the personal estate and effects is under ——— dollars and of the real estate is under ——— dollars, and that full particulars and an appraisement of all said property are exhibited herewith and verified upon oath.

Wherefore your petitioner prays that probate of said will (and codicil) of the said deceased may be granted to him by this Honourable Court.

Dated the ——— day of ———, 19—.

1504. AFFIDAVIT OF PLIGHT.

In the Surrogate Court of the County of ———.

In the estate of ———, deceased.

I, A.B., etc., make oath and say, that I am the sole executor named in the paper-writing now hereunto annexed, purporting to be and contain the last will and testament of C.D., late of F, etc., deceased, who died on or about the ——— day of ———, at ———, and had at the time of *his* death a fixed place of abode at ——— in the said County (*or as the case may be*), the said will bearing date the ——— day of ———, beginning thus ——— ending thus ——— and being subscribed thus "C.D." and having viewed and perused the said will, and particularly observed that (*here recite the finding of the said will and the various alterations, erasures and interlineations (if any), and the general plight and condition of the will, or any other matter requiring to be accounted for, and clearly trace the will, from the possession of the deceased in his lifetime, up to the time of making the affidavit;*) I, ———, lastly make oath that the same is now in all respects in the same state, plight and condition as when ——— (*as the case may be*).

This affidavit is filed on behalf of ——— by ——— solicitor.

1505. AFFIDAVIT OF DEATH, PLACE OF ABODE.

In the Surrogate Court of the County of ———.

In the estate of C.D., deceased.

I, A.B., of the ——— of ——— in the County of ———, (*addition*), make oath and say:—

1. That I am one of the Executors named in the Will (*or* the party applying for administration of the property of) of the said C.D., deceased.

2. That the said deceased died on or about the ——— day of ——— in the year of our Lord 19—, at ———, and the said deceased at the time of ——— death had ——— fixed place of abode at ——— in the said County of ——— (*or* resided out of Ontario, but had at such time property in the said County of ———).

This affidavit is filed on behalf of the applicant by

His Solicitor.

1506. AFFIDAVIT OF EXECUTION OF WILL

Executed after 31st December, 1873.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ——— in the County of ———, (*addition*), make oath and say:—

1. That I knew A.B., late of ——— in the County of ———, deceased.

2. That on or about the ——— day of ———, in the year of our Lord one thousand nine hundred and ———, I was personally present and did see the paper writing hereunto annexed marked "A" signed by the said A.B., as the same now appears, as and for his last Will and Testament, and that the same was so signed by the said A.B. in the presence of me and of ———, of the ——— of ——— in the County of ———, who were both present at the same time; whereupon the said ——— and I did at the request of the said A.B., and in his presence, attest and subscribe the said Will.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1507. AFFIDAVIT OF EXECUTION OF WILL

Executed before 1st January, 1874.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,

Deceased.

I, C.D., of the ——— of ——— in the County of ———, (*addition*), make oath and say:—

1. That I knew A.B., late of the ——— of ——— in the County of ———, deceased.

2. That on or about the ——— day of ———, in the year of our Lord one thousand eight hundred and ———, I was present and did see the said A.B. sign and declare the paper writing hereto annexed, as and for the last Will and Testament of the said A.B.

3. That I, this deponent, and E.F. (*the second witness*) of——— did subscribe our names as witnesses to the execution of the said Will at the request of the said testator and in the presence of each other, all present together at the same time; and, lastly, that the several names subscribed as witnesses to the execution of the said Will are of the proper hand-writing of this deponent and the said ———, respectively.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1508. OATH OF EXECUTOR.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,

Deceased.

I, C.D., of the ——— of ——— in the County of ———, (*addition*), make oath and say:—

1. That I believe this paper writing hereto annexed and marked "A" contains the true and original last Will and Testament (*and* codicil, *as the case may be*) of ———, late of the ——— of ———, in the County of ———.

2. That I am the sole executor (*or* one of the executors) therein named, and that I will faithfully administer the property of said testator, by paying his just debts, and the legacies contained in his Will, so far as the same will thereunto extend and the law bind me, and by distributing the residue, if any, of the said estate according to law; and that I will exhibit under oath a true and perfect inventory of all land singular the property of the testator, and render a just and full account of my executorship when required by law so to do.

This affidavit is filed on behalf of (the applicant) by G.H., his solicitor.

1509. OATH OF EXECUTOR.

(*Fuller Form.*)

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,
Deceased.

I, C.D., of ———, in the County of ———, (*addition*), make oath and say:—

1. That I am the Executor named in the last Will and Testament of ———, in his lifetime of the ——— of ——— in the County of ———, but now deceased.

2. That the said deceased died on or about the ——— day of ———, 19—, at the ——— of ——— aforesaid, and that he at the time of his death had his fixed place of abode at ——— in the said County of ———.

3. That the value of the whole property of the said deceased, which he in any way died possessed of or entitled to, and for and in respect to which Probate of the said Will is to be granted, is under ——— dollars.

4. That the value of the personal estate and effects is under ——— dollars, and of the real estate is under ——— dollars, and that full particulars and a true appraisement of all said property are exhibited herewith, and are set forth in Exhibit "A" hereto, which contains a full, true and correct inventory and valuation of the real and personal estate and effects of said deceased at the time of his death, so far as I have been able to ascertain the same.

5. That I believe the paper writing hereto annexed and marked as Exhibit "B" hereto, and marked by me, to contain the true and original last Will and Testament of the said ———.

6. That I will faithfully administer the property of the said testator by paying his just debts and the legacies contained in his said Will, so far as the same will thereunto extend and the law bind me, and by distributing the residue (of any) of the estate according to law, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the testator, and render a just and full account of my executorship, whenever required by law so to do.

This affidavit is filed on behalf of the Executor of the said A.B. by

G.H., his solicitor.

"A."

INVENTORY AND VALUATION ABOVE REFERRED TO.

In the Surrogate Court of the County of ———.
In the Estate of A.B., Deceased.

	VALUE.			VALUE.	
Household Goods and Furniture,			Cash on hand or in Bank,		
Farming Implements,			Money secured by Mortgage,		
Horses,			Book Debts, Promissory Notes and other securities,		
Horned Cattle, Sheep and Swine,			Other personal property not before mentioned,		
Farm Produce of all kinds,			Total personalty,		$
Money secured to estate by Life Insurance,			Real Estate, estimated,		
Bank Stock and other Stock,			(Encumbered to the amount of $)		
Stock-in-Trade,					

This is Exhibit "A" referred to in the Affidavit of C.D., sworn before me this ——— day of ———, 19—.

A Commissioner, &c.

1510. NOTICE OF APPLICATION FOR PROBATE.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

To the Surrogate Clerk:

Take notice that application has been made to the Surrogate Court of the County of ——— for grant of Probate of the Will bearing date the ——— day of ——— A.D., 19—, of ——— late of the ——— of ——— in the County of ———, (*addition*), deceased, who died on or about the ——— day of ——— A.D., 19—, having at the time of his death a fixed place of abode at ——— in the said County of ———, by the executor named in the said Will.

Application received the ——— day of ——— A.D., 19—.

This notice mailed the ——— day of ——— A.D., 19—.

Registrar of the said Court.

1511. CERTIFICATE BY SURROGATE CLERK

Upon Notice of Application for Grant of Letters.

OFFICE OF THE SURROGATE CLERK.

In the Estate of ———, deceased, named in a certain notice of application to the Surrogate Court of the County of ——— for grant of probate (*or* administration, *as the case may be*), dated the ——— of ———, 19—, and described therein as ———, late of ———, &c. (*copy from notice of application*).

I, ———, the Surrogate Clerk, do hereby certify that no notice of application in respect to the property of the said deceased has been received by me from any of the Registrars of the Surrogate Courts in Ontario, save the above (*or, if another notice has been*

received, add: and a certain other notice of application from the Registrar of the Surrogate Court of the County of ———, dated the ——— day of ———, 19—, for a grant of the probate of the will bearing date, &c., *as in the notice of application*).

And I further certify that no caveat or copy of caveat against the grant of probate or administration in the property of the said deceased has been lodged with or received by me (*or, if caveat or notice of caveat has been lodged or received, instead of the above say:* and I further certify that a caveat in the estate of the said deceased has been lodged with me on the ——— day of ———, 19—, a copy of which is hereunto annexed.)

Dated the ——— day of ———, 19—.

Surrogate Clerk.

1512. **CERTIFICATE OF REGISTRAR.**

On Application for Grant of Letters.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,

Deceased.

The ——— day of ———, 19—.

I have the honor to submit the following papers hereunto annexed in the above matter, all of which have been duly signed, sworn to and executed, namely:

1. Application of ——— for ———.
2. Schedule of Real Estate (valued at $———) and Inventory of Property (valued at $———).
3. Certificate of Surrogate Clerk.
4. Affidavit of death and place of abode of the testator (*or* intestate).
5. Affidavit of value of property devolving.
6. Affidavit of search for Will.
7. Affidavit of plight and condition of finding of Will.
8. Affidavit of execution of Will.
9. Will of ———, signed by Executor and Commissioner as an Exhibit.
10. Oath of Executor (*or* Administrator).
11. Administration Board and Affidavits of justification in double the amount of the Property, and I certify that both of the sureties are good and efficient.
12. Deed of Renunciation by ———.
13. ———.
14. ———.
15. ———.

All of which I humbly certify,

Registrar.

To His Honor the Judge of the Surrogate
Court of the County of ———.

1513. ADVERTISEMENT OF APPLICATION FOR PROBATE *Where Testator resided out of Ontario* (*Surrogate Courts Act*, (*Sec. 36.*)

NOTICE OF APPLICATION.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

Notice is hereby given that after the publication hereof in three successive issues of *The Ontario Gazette*, ——— and ———, of the Village of ———, in the State of New York, executors of the last Will and Testament of ———, late of the same place, deceased, will apply to the Surrogate Court of the County of ——— for probate in Ontario of the Will of said deceased, who died on or about the ——— day of ———, 19—, at ——— aforesaid, having at the time of his death no fixed place of abode in Ontario, but leaving property in the County of ——— to be administered.

Solicitors for the Applicants.

Dated the ——— day of ———, 19—.

1514. RENUNCIATION OF PROBATE.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,
Deceased.

Whereas A.B., late of the ——— of ——— in the County of ———, (*addition*), deceased, died on or about the ——— day of ———, 19—, intestate, and had at the time of his death a fixed place of abode in the said ——— of ———:

And whereas the said A.B. made and duly executed his last Will and Testament bearing date the ——— day of ———, 19—, and appointed me, C.D., of the ——— of ——— in the County of ———, (*addition*), one of the executors thereof, as I am informed and believe:

Now I, the said C.D., do hereby expressly renounce all my right and title to the probate and execution of the said will (and codicil, *if any*) of the said deceased.

In witness whereof I have hereunto set my hand and seal this ——— day of ———, 19—.

Signed, sealed and delivered by the said C.D.
in the presence of

AFFIDAVIT OF EXECUTION OF RENUNCIATION.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,
Deceased.

I, ———, of the ——— of ——— in the County of ———, (*addition*), make oath and say: That I was present and did see the within renunciaton of probate duly executed by C.D., one of the parties named therein; and that the name "———" set and subscribed as a witness thereto is of the proper hand-writing of me this deponent, and that the same was executed at ——— in the County of ———.

This affidavit is filed on behalf of ——— by ———, his solicitor.

1515. RETRACTION OF RENUNCIATION.

IN THE SURROGATE COURT OF THE COUNTY OF ———.

In the Estate of A.B.,

Deceased.

Whereas A.B., late of the ——— of ———, in the County of ———, ———, deceased, died on or about the ——— day of ———, 19—, having at the time of his death a fixed place of abode at the ——— of ———, in the said County of ———, and having made and duly executed his last Will and Testament, bearing date the ——— day of ———, 19—, and thereof appointed C.D. executor, and me, the undersigned, E.F., residuary legatee.

And whereas the said C.D. duly renounced probate and execution of the said Will, and I, the said E.F., also duly renounced letters of administration with the said Will annexed of the estate of the said deceased.

And whereas letters of administration with the said Will annexed of the said estate were on the ——— day of ——— granted by the said Court to G.H., a creditor of the said deceased; and whereas the said G.H. died on or about the day of ———, 19—, leaving part of the said estate unadministered.

Now I, the said E.F., do hereby declare that I retract the renunciation of the letters of administration with the said Will annexed to the said estate, so as aforesaid by me heretofore made.

In witness whereof I have hereunto set my hand and seal this ——— day of ———, 19—.

Signed, sealed and delivered
in the presence of

1516. LETTERS PROBATE.

CANADA:

Province of Ontario.

IN HIS MAJESTY'S SURROGATE COURT OF THE COUNTY OF ———.

Be it known that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— the last will and testament of ——— late of the ——— of ——— in the

County of ——— and Province of Ontario, (*addition*,) deceased, who died on or about the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— at ——— in the County of ———, and who at the time of his death had a fixed place of abode at ———, was proved and registered in the said Surrogate Court, a true copy of which said last will and testament is hereunder written, and that the administration of all and singular the property of the said deceased and in any way concerning his will was granted by the aforesaid Court to ———, the executor named in the said will, he having been first sworn well and faithfully to administer the same by paying the just debts of the deceased and the legacies contained in his will, so far as he is thereunto bound by law, and by distributing the residue (if any) of the property according to law, and to exhibit under oath a true and perfect inventory of all and singular the said property, and to render a just and true account of his executorship.

[SEAL.]

Registrar of the Surrogate Court
of the County of ———.

1517. LETTERS—DOUBLE PROBATE.

CANADA:

Province of Ontario.

IN HIS MAJESTY'S SURROGATE COURT OF THE COUNTY OF ———.

Whereas on the ——— day of ——— A.D. 19— the last will and testament (*or* the last will and testament with codicils) of A.B. late of the ——— of ——— in the County of ———, (*addition*), who died on or about the ——— day of ——— A.D. 19— at———, and who at the time of his death had a fixed place of abode at ——— in the said County of ———, (*or* had no fixed place of abode in Ontario, *or* resided out of Ontario but had at such time property in the said County of ———), was proved and registered in the said Surrogate Court, a true copy of which said last will and testament is hereunto annexed, (*or* true copies of which said last will and testament and codicil are hereunto annexed), and that the administration of all and singular the property of the said deceased and in any way concerning his will was granted by the aforesaid Court to C.D. of the ——— of ——— in the County of ———, (*addition*), one of the executors named in the said will (*or* codicil), power being reserved of making the like grant to E.F. of the ——— of ——— in the County of ———, (*addition*), the other executor named in the said will, when he should apply for the same, be it therefore known that also on the ——— day of ——— A.D. 19— the said will of the said deceased was proved, and that the like administration of all and singular the property of the said deceased and in any way concerning his will was granted to the said E.F., he having been first duly sworn well and faithfully to administer

the same by paying the just debts of the deceased and the legacies contained in his will (*or* will and codicil), so far as he is thereunto bound by law, and by distributing the residue (if any) of the property according to law, and to exhibit under oath a true and perfect inventory of all and singular the said property, and to render a just and true account of his executorship whenever required so to do.

[SEAL.]

Registrar of the Surrogate Court of the County of ———.

1518. EXEMPLIFICATION OF PROBATE.

Or of Letters of Administration with Will Annexed.

CANADA:

Province of Ontario.

IN HIS MAJESTY'S SURROGATE COURT OF THE COUNTY OF ———.

Be it known that, upon search being this day made in His Majesty's Surrogate Court of the County of ———, it plainly appears that on the ——— day of ——— A.D. 19— the last will and testament (with codicils) of ———, late of the ———of——— in the County of ———, (*addition or occupation*), deceased, who died at ——— on or about the ——— day of ——— 19—, and had at the time of his death a fixed place of abode at the ——— of ——— in the said County of ——— (*or as the case may be*), was proved by ——— of the ——— of ——— in the County of ———, (*addition or occupation,*) the executor therein named, (*or* that on the ——— day of ——— A.D. 19— Letters of Administration with the last will and testament (and codicils) annexed of the property of ———, late of &c., were granted to ——— of the ——— of ——— in the County of ———), and which said Probate (*or* Letters of Administration) now remains of record in the said Surrogate Court. The true tenor of the said Probate (*or* Letters of Administration with the will annexed) is in the words following, to wit.: (*Here let grant be recited verbatim*).

In faith whereof these letters testimonial are issued.

Given at the ——— of ——— in the County of ——— this ——— day of ——— 19—.

[SEAL.]

Registrar of the Surrogate Court of the County of ———.

1519. OATH FOR ATTORNEY OF EXECUTOR.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, post master, make oath and say:—

That I believe this paper writing hereto annexed to contain the true and original last will and testament of A.B., late of the ———

——— of ———, in the County of ———, postman, deceased, and that E.F., the sole executor named therein, resides at ———, in the State of California, one of the United States of America.

That I am the lawful attorney of the said E.F.

That I will faithfully administer the property of the said deceased according to the tenor of the will, for the use and benefit of the said E.F., and until he shall duly apply for and obtain probate of the said will, by paying the testator's just debts and the legacies contained in his will so far as the same shall thereunto extend and the law bind me, and distributing the residue, if any, of the said estate according to law and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said testator and render a just and true account of my administration when thereunto lawfully required.

This affidavit is filed, &c.

1520. OATH OF COMMITTEE OF A LUNATIC EXECUTOR.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, farmer, make oath and say:

That I believe the paper writing hereto annexed to contain the true and original last will and testament of A.B., late of the ——— of ———, in the County of ———, physician, and that E.F., the sole executor therein named is a lunatic confined in the Provincial Lunatic Asylum at the City of Toronto, in the County of York; and by an order of the High Court of Justice bearing date the ——— day of ———, 19—, I this deponent was appointed committee of the estate of the said lunatic; and that I will faithfully administer the property of the said deceased according to the tenor of his will for the use and benefits of the said E.F., and until he shall become of sound mind, by paying the just debts of the testator and the legacies contained in his will so far as the same shall thereunto extend and the law bind me, and by distributing the residue, if any, of the estate according to law; and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said testator and render a just and true account of my administration when thereunto lawfully required.

This affidavit is filed, &c.

1521. OATH FOR PROBATE (SAVE AND EXCEPT).

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, builder, make oath and say:

That the said A.B., late of the ——— of ———, in the County of ———, bricklayer, deceased, died on or about the ——— day of ———, 19—, having made and duly executed his last will and testament bearing date the ——— day of———, and therein named his lawful son, me this deponent, executor save and except as regards all real and personal estates whatsoever vested in him upon or for the trusts or purposes of the last will and testament of E.F., late of the ——— of ———, in the County of ———, deceased.

I believe the paper writing hereto annexed to contain the true last will and testament of the said A.B., deceased, and that I am the executor therein named as aforesaid, and that I will faithfully administer the property of the said testator save and except so far as relates to all real and personal estates vested in the said testator upon or for the trusts or purposes of the will of the said E.F., deceased, by paying his just debts and the legacies contained in his will so far as the same will thereunto extend and the law bind me, and by distributing the residue, if any, of the estate according to law; and that I will exhibit under oath a true and perfect inventory of the said estate, save and except as aforesaid; and render a just and full account of my executorship whenever thereunto lawfully required.

This affidavit is filed, &c.

1522. OATH FOR PROBATE (CÆTERORUM).

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, gentleman, make oath and say:

That the said A.B., late of the ——— of ———, in the County of ———, died on or about the ——— day of ———, 19—, at ———, having made and duly executed his last will and testament, bearing date the ——— day of ———, 19—, and therein named E.F. executor in respect of all his literary papers and documents, and his lawful son, me this deponent, executor as to the rest of his estate.

That on or about the ——— day of ———, 19—, probate of the said will, limited so far only as respected the literary papers and documents of the said testator, was granted by the said Court to the said E.F.

That I believe the paper writing hereto annexed to contain the true and original last will and testament of the said testator; that I am the executor therein named as to the rest of his estate; and that I will faithfully administer all the rest of the property of the said testator by paying his just debts and the legacies contained in his will, so far as the same will thereunto extend and the law bind me, and by distributing the residue, if any, of the estate according

to law; and that I will exhibit under oath a true and perfect inventory of all and singular the property of the testator save and except as aforesaid, and render a just and full account of my executorship whenever thereunto lawfully required.

This affidavit is filed, &c.

1523. OATH FOR CESSATE PROBATE

To a Substituted Executor.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, stockbroker, make oath and say:

That A.B., late of the ——— of ———, in the County of———, banker, deceased, died on or about the ——— day of ———, at ———, having made and duly executed his last will and testament bearing date the ——— day of ———.

That on the ——— day of ———, 19—, probate of the said will was granted out of the said Court to E.F., the lawful widow and relict of the said deceased, the executrix for life named in the said will. That the said E.F. died on the ——— day of ———, 19—, whereby the said probate has ceased and expired.

That I believe the paper writing hereto annexed and marked by me to contain the true and original last will and testament of the said A.B., deceased, of which probate was granted as aforesaid; that I am the lawful son of the said deceased, and the executor substituted in the said will; and that I will faithfully administer the property of the said testator (*etc., as in the ordinary form*).

This affidavit is filed, &c.

1524. OATH FOR CESSATE PROBATE,

The Executor Having Attained his Majority.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, make oath and say:

That the said A.B., late of the ——— of ———, in the County of ———, butcher, deceased, died on or about the ——— day of ———, 19—, at ———, having made and duly executed his last will and testament; that I am the nephew of the said deceased and the sole executor named in the said will.

That on the ——— day of ———, 19—, letters of administration with the said will annexed of the estate of the said deceased

were granted by the said Court to E.D., the natural and lawful guardian of me this deponent, for my use and benefit until I should attain the age of twenty-one years.

That on the ——— day of ———, 19—, I attained the age of twenty-one years, and the said letters of administration with the will annexed have consequently ceased and expired.

That I believe the paper writing hereunto annexed and marked by me to contain the true and original last will and testament of the said A.B., deceased; and that I will faithfully administer the property of the said testator (*etc., as in the ordinary form*).

1525. OATH FOR CESSATE PROBATE

To Executor where Attorney has Proved.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, civil engineer, make oath and say:

That the said A.B., late of the ——— of ———, in the County of ———, land surveyor, deceased, died on or about the ——— day of ———, 19—, at ———, having made and duly executed his last will and testament; that I am the lawful son of the said deceased, and the sole executor named in the said will.

That on the ——— day of ———, 19—, letters of administration with the said will annexed of the estate of the said deceased were granted by the said Court to E.F., as the lawful attorney and for the use and benefit of me this deponent, and until I should apply for and obtain probate of the said will.

That I believe the paper writing hereunto annexed and marked by me to contain a true copy of the last will and testament of the said deceased; that I will faithfully administer the property of the said testator (*etc., as in the ordinary form*).

1526. OATH OF EXECUTOR,

Former Probate Having been Revoked.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, brewer, make oath and say:

The said A.B., late of the ——— of ———, in the County of ———, carpenter, deceased, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, having made and duly executed his last will and testament, bearing date the ——— day of ———, 19—, and thereof appointed his lawful son, me this deponent, sole executor.

That probate of an earlier will of the said testator, dated the ——— day of ———, 19—, was on the ——— day of ———, 19—,

granted by the said Court to E.F., the sole executor therein named.

The said probate has since been voluntarily brought in by the said E.F. and revoked.

I believe the paper writing hereto annexed to contain the true and original last will and testament of the said testator and that I am the sole executor therein named; and that I will faithfully administer the property of the said testator by paying his just debts and the legacies contained in his will so far as the same will thereunto extend and the law bind me, and by distributing the residue, if any, of the estate according to law and will exhibit under oath a true and perfect inventory of all and singular the property of the said testator and render a just and full account of my executorship whenever thereunto lawfully required.

1527. OATH OF EXECUTOR—DOUBLE PROBATE.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, baker, make oath and say:

That I believe the paper writing hereto annexed and marked by me to contain the true and original (*or* a true copy of the true and original, *as the case may be*) last will and testament of ———, late of the ——— of ———, in the County of ———, deceased.

That on or about the ——— day of ———, 19—, probate of the said will was granted by the said Court to E.F., one of the executors named in the said will, power being reserved of making the like grant to me, C.D., the son of the deceased, the other executor therein named.

That I am the other executor named in the said will, and that I will faithfully administer the property of the said testator by paying his just debts and the legacies contained in his will so far as the same will thereunto extend and the law bind me, and by distributing the residue, if any, of the estate according to law, and will exhibit under oath a true and perfect inventory of all and singular the property of the said testator and render a just and full account of my executorship whenever lawfully required.

1528. OATH ON PROVING THE DRAFT OF A WILL.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, confectioner, make oath and say:

That the said A.B., late of the ——— of ———, in the County of ———, widow, deceased, died on or about the ——— day of ———, 19—, having made and duly executed her last will and testament, bearing date the ——— day of ———, and thereof appointed her lawful son, me this deponent, sole executor.

That at the time of the death of the said deceased, the said will was whole and unrevoked, but since the death of the said deceased, the said will has been lost and cannot now be found.

That on the ——— day of ———, 19—, the said Court in an action wherein ——— was plaintiff and ——— was defendant, pronounced for the force and validity of the said will as contained in a draft to be granted and committed to me the sole executor therein named, limited until the original will or a more authentic copy thereof be brought into and left in the said Registry.

That I believe the said paper writing now hereto annexed, marked by me, to contain the true last will and testament (the same being the original draft thereof) of the said testatrix; that I am the sole executor therein named; and that I will faithfully administer the property of the testatrix by paying her just debts and the legacies contained in her will so far as the same will thereunto extend and the law bind me, until the original will or a more authentic copy thereof shall be brought into and left in the said Registry; and that I will exhibit under oath a true and perfect inventory of all and singular the property of the testatrix and render a just and full account of my executorship whenever thereunto lawfully required.

1529. OATH ON PROVING A COPY OF A WILL

The Original Being Lost.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, butcher, make oath and say:

That the said A.B., late of the ——— of ———, in the County of ———, drover, deceased, died on or about the ——— day of ———, 19—, having made and duly executed his last will and testament, bearing date the ——— of ———, 19—, and thereof appointed his wife, D.B., since deceased, and me, the said C.D., the lawful executors thereof.

That at the time of the death of the said deceased the said will was whole and unrevoked and in the same state as when executed, but that the same has since been lost and cannot be found.

That shortly after the death of the said deceased a copy of the said will was made by ——— of the ——— of ——— in the County of ———, solicitor, at the request of the said D.B., widow and relict of the said deceased, and the same was by him carefully compared with the original and found to be a true copy thereof.

That I believe the paper writing hereto annexed and marked by me to contain the true last will and testament of the said testator (the same being the aforesaid copy thereof); that I am the surviving executor named in the said will; and that I will faithfully

administer the property of the testator by paying his just debts and the legacies contained in his will so far as the same will thereunto extend and the law bind me, and by distributing the residue, if any, of the estate according to law until the original will or a more authentic copy thereof be brought into the Registry of the said Court, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the testator, and render a just and full account of my executorship whenever thereunto lawfully required.

1530. OATH ON PROVING A COPY OF A WILL

Transmitted to Ontario, the Originial being in Existence Elsewhere.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, carpenter, make oath and say:—

That A.B., late of the ——— of ———, in the County of ———, died on or about the ——— day of ———, having made and duly executed his last will and testament bearing date the ——— day of ———, and thereof appointed his lawful son, me this deponent, sole executor.

The said will was executed by the deceased when he was resident at ———, and the same was deposited by the said deceased after the execution thereof with E.F., of that place, and who still retains possession thereof.

On the ——— day of ——— a copy of the said will was received by me in due course of post from the said E.F.

There is nowhere in Ontario a more authentic copy thereof than the aforesaid copy, and it is essential to the interest of the estate of the said deceased that probate thereof should be granted without waiting the arrival of the original will or a more authentic copy thereof.

I believe the paper writing hereto annexed and marked by me to contain the true last will and testament (the same being the aforesaid copy thereof) of the said deceased, and that I am the sole executor therein named; and that I will until the said original will or a more authentic copy thereof shall be brought into and left in the Registry of the said Court, faithfully administer the property of the said testator (*etc., as in the ordinary form*).

1531. AFFIDAVIT OF EXECUTION OF WILL

In which there are Alterations.

(*Add to the usual affidavit of execution the following paragraphs.*)

3. That the words ——— in writing between ——— —and ——— lines of the ——— sheet of the said will and the following altera-

tions and obliterations, that is to say: (*here set out all alterations and obliterations, with the effect and location of each*) were made thereon before the said will and testament was signed as aforesaid by the said A.B. at the time and in the manner aforesaid.

4. That the said interlineations, alterations and obliterations were written and made by me in the said will previously to the execution thereof.

1532. AFFIDAVIT AS TO TESTATOR'S KNOWLEDGE

Of the Contents of His Will.

(*Add to the usual affidavit of execution the following paragraphs.*)

3. That previously to the execution of the said will by the said testator, the same was read over to him by me (*or* by E.F. in my presence) (*or* by the said testator in my presence), and he, the said testator, at such time seemed thoroughly to understand the same (*or* had full knowledge of the contents thereof).

1533. AFFIDAVIT OF EXECUTION

Where a Will is Signed in the Attestation or Testimonium Clause.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, ———, make oath and say:—

1. That I knew A.B., late of the ——— of ———, in the County of ——— (*occupation*), deceased.

2. That on or about the ——— day of ———, in the year of our Lord one thousand nine hundred and ———, I was personally present and did see the paper writing hereunto annexed marked "A" executed by the said A.B., by signing his name in the attestation (*or* testimonium) clause thereof (*or as the case may be*) as the same now appears, meaning and intending the same for his final signature to his will, in the presence of me and of E.F., of the ——— of ———, in the County of ———, ——— who were both present at the time, whereupon the said E.F. and I did at the request of the said A.B. and in his presence attest and subscribe the said will.

1534. AFFIDAVIT AS TO DEATH OF ATTESTING WITNESSES.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

We, C.D., of the ——— of ———, in the County of ———, widow, E.F., of the ——— of ———, in the County of ———,

grocer, and G.H., of the ——— of ———, in the County of ———, estate agent, severally make oath and say as follows:—

1. That we have carefully inspected the last will and testament of the said A.B., deceased, hereunto annexed, dated the ——— day of ———, and have also observed the names of K.L. and M.N., subscribed to the said will as witnesses attesting the due execution thereof.

And I, the said C.D., for myself, make oath and say:—

2. I am the lawful widow and relict of the said testator and the sole executrix named in his said will.

3. That I have made inquiries, and have caused inquiries to be made, respecting the execution of the said will, and by means of such inquiries have ascertained that no person or persons was or were present at the execution of the said will, save and excepting the said testator and the said K.L. and M.N.

And I, the said E.F., for myself, make oath and say:—

4. That I knew and was well acquainted with the said A.B, who died on the ——— day of ———, 19—, at ———, for many years before and down to the time of his death, and that during such period I frequently saw him write and subscribe his name to writings and I have thereby become well acquainted with his manner and character of handwriting and I verily believe the name A.B. subscribed to the said will as aforesaid to be of the true and proper handwriting of the said A.B., deceased.

5. That I knew and was well acquainted with the said K.L., whose name appears subscribed to the said will as one of the attesting witnesses thereto, and the said K.L. died on or about the ——— day of ———, 19—.

6. That during the period of my acquaintance with the said K.L., I frequently saw him write and subscribe his name to writings, whereby I have become well acquainted with his manner and character of handwriting and I verily believe that the name K.L. now appearing subscribed to the said will as witness to the execution thereof is of the true and proper handwriting of the said K.L.

And I, the said G.H., for myself, make oath and say:—

7. That I have carefully inspected the said last will and testament of the said A.B., deceased, hereunto annexed, dated the ——— day of ———, and have also observed the names K.L. and M.N., subscribed to the said will as witnesses attesting due execution thereof.

8. That I am a cousin of the said M.N. whose name appears subscribed to the said will as a witness to the execution thereof, and that the said M.N. died on or about the ——— day of ———, 19—.

9. That I have frequently seen the said M.N. write and subscribe his name to writings whereby I have become well acquainted with his manner and character of handwriting, and I verily believe

that the name M.N. now appearing subscribed to the said will as a witness to the execution thereof is of the true and proper handwriting of the said M.N.

This affidavit is filed, &c.

1535. AFFIDAVIT AS TO ABSENCE OF ATTESTING WITNESSES.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

We, C.D., of the ——— of ———, in the County of ———, grocer, and E.F., of the ——— of ———, in the County of ———, baker, severally make oath and say:

1. We have each carefully inspected the last will and testament of the said A.B., of the ——— of ———, in the County of———, butcher, deceased, the said will being now hereunto annexed, marked "A," and bearing date the ——— day of ———, 19—, and subscribed by the said A.B., and we have carefully observed the names G.H. and M.N. subscribed to the said will as witnesses to the due execution thereof.

And I, the said E.F., for myself, make oath and say:

2. That I knew and was well acquainted with the said A.B., the testator, who died on the ——— day of ———, at the ——— of ———, in the County of ———, for many years before and down to the time of his death, and that during such period I have frequently seen him write and subscribe his name to writings and I have thereby become well acquainted with his manner and character of handwriting, and I verily believe the name A.B. subscribed to the said will to be of the true and proper handwriting of the said A.B., deceased.

3. That I am the uncle of the said M.N., and that the said M.N., in the month of ———, 19—, left this country for some place unknown to this deponent, and has not since been heard of.

4. I have frequently seen the said M.N. write and subscribe his name to writings whereby I have become well acquainted with his manner and character of handwriting, and I verily believe that the name M.N. now appearing subscribed to the said will as witness to the due execution thereof, is of the true and proper handwriting of the said M.N.

And I, the said C.D., for myself, make oath and say:

5. That I am the sole executor named in the said will and that I have made inquiries and have caused inquiries to be made respecting the said execution of the said will and I have ascertained that no person or persons was or were present at the execution of the said will save and excepting the said testatrix and the said G.H. and M.N. (*Account for the other attesting witnesses in a similar way.*)

1536. AFFIDAVIT OF HANDWRITING.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, widow, make oath and say:

1. That I knew and was well acquainted with A.B., of the ——— of ———, in the County of ——— (*occupation*), deceased, who died on or about the ——— day of ———, at the ——— of ———, in the County of ———, for many years before and down to the time of his death, and during such period I frequently saw him write and subscribe his name to writings, whereby I became well acquainted with his manner and character of handwriting, and I have now carefully perused and inspected the paper writing hereunto annexed and marked "A," purporting to be and contain the last will and testament of the said deceased, bearing date the——— day of ———, A.D. 19—, and being subscribed thus, "A.B."

2. That I verily believe the whole of the said will, together with the name A.B. subscribed thereto as aforesaid, to be of the true and proper handwriting of the said A.B., deceased.

1537. AFFIDAVIT VERIFYING ALTERATIONS.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, physician, make oath and say:

1. That the last will and testament of the said A.B., late of the ——— of ———, in the County of ——— (*occupation*), deceased, hereunto annexed, marked "A," and bearing date the ——— day of ———, 19—, wherein there is an erasure appearing at the beginning of the ——— line on the ——— page or side thereof, immediately before the words ———, and whereon there is an interlineation of the word ——— between the ——— and ——— lines of the said page, is throughout in my handwriting.

2. That the said erasure and interlineation were made by me in the said will in the manner and form as the same now appear previously to the execution of the said will by the said A.B., the testator.

1538. ADVERTISEMENT FOR RECOVERY OF LOST WILL.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

A.B., late of the ——— of ———, in the County of ———, innkeeper, deceased, duly executed his will on or about the ——— day of ———, 19—, in the presence of C.D., of ———, solicitor, and E.F., of ———, physician. By this will the testator gave his personal estate to his wife, C.B., and devised his real estate to her

for life and afterwards to his children. He appointed his wife sole executrix. He died on the ——— day of———, 19—, at the——— of ———, in the County of ———. One week after his death a true copy of the will was made from the original, but the latter cannot now be found. Whoever will bring the original will or give such information as will lead to its discovery, to Mr. C.D., of———, solicitor, will be rewarded.

1539. AFFIDAVIT OF PUBLICATION OF ADVERTISEMENT.

For the Recovery of a Lost Will.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, E.F., of the ——— of ———, in the County of ——— solicitor, make oath and say:

1. I am the solicitor of C.D., the sole executrix named in the last will and testament of the above-named A.B., late of the ——— of ———, in the County of ———, deceased, and the party now applying to the said Court for probate of a copy of the said will.

2. That I caused to be inserted in the ———, a daily morning journal published at the ——— of ———, in the County of ———, and having a large circulation in the said County (*or as the case may be*), the advertisement, a newspaper clipping of which is taken from the regular issue of the said newspaper, and is hereunto annexed, marked "A."

3. That I have carefully examined the files of the said newspaper, and the said advertisement, a copy of which is hereunto annexed, marked "A," appeared in the regular issues of the said newspaper on the following days, that is to say: (*here set out the dates*).

4. No information has been given to me in consequence of or in answer to the said advertisement, nor have I been able to obtain any information respecting the original will therein referred to.

1540. AFFIDAVIT AS TO DOMICILE.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, (*occupation*), make oath and say:

1. That I knew and was well acquainted with the said A.B., of the ——— of ———, in the State of New York, one of the United States of America, deceased, who died on or about the ——— day of ———, at the ——— of ———, in the County of ——— and Province of ———.

2. That the said deceased was at the time of his death, domiciled in the said State of New York, one of the United States of America.

3. That (*here set out fully the grounds on which the assertion as to domicile is made*).

1541. AFFIDAVIT AS TO STATUS OF TESTATOR.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, (*occupation*), make oath and say:

1. That I am the sole executrix named in the last will and testament of the said A.B., late of the ——— of ———, in the County of ———, (*occupation*), deceased, hereunto annexed and marked "A," bearing date the ——— day of ———, 19—.

2. That the said will was made at the ——— of ———, in the County of ———.

3. That the said A.B. was a British subject, and was born of parents who were British subjects at the ——— of ———, in the ——— of ———, that his domicile of origin was the Province of Ontario (*or as the case may be*).

1542. AFFIDAVIT AS TO FOREIGN LAW.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, (*attorney-at-law, advocate, or other person conversant with the laws of the country in question, or in Scotland a Writer to the Signet*), make oath and say as follows:

1, I am conversant with the laws and constitutions of the Kingdom of ——— (*here set out fully the circumstances in which the deponent has acquired his knowledge, the length of his experience, and any other circumstances tending to give weight to his evidence*).

2. I have carefully examined and perused the last will and testament of the said A.B., of the ——— of ———, in the County of ——— (*occupation*), deceased, hereunto annexed, marked "A," and bearing date the ——— day of ———, and the said will is made in conformity to and is valid by the aforesaid laws and constitutions.

1543. AFFIDAVIT TO LEAD ORDER TO BRING IN SCRIPT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, tailor, make oath and say:

1. That the said A.B., late of the ———of ———, in the County of ———, blacksmith, deceased, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, having first made and duly executed his last will and testament, bearing date the ——— day of ———, 19—, and thereby appointed E.F. and G.H. executors thereof, and me, this deponent, residuary legatee.

2. That the said will is now in the possession, within the power or under the control of the said E.F. and G.H., or one of them, and that they, the said E.F. and G.H., have neglected or declined to prove the said will or renounce the execution thereof.

3. I am desirous that the said will should be brought into the registry of the Surrogate Court aforesaid in order that I may prove the same or otherwise act as I may be advised.

4. The said E.F. resides at the ——— of ———, in the County of ———, and the said G.H. resides at the ——— of ———, in the County of ———.

1544. ORDER TO IMPOUND GRANT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Upon the application of C.D., and upon reading the affidavit of C.D., filed herein, and the affidavit of E.F., of the ——— of ———, in the County of ———, physician, and G.H., of the ——— of ———, in the County of ———, physician, filed herein, whereby it appears that on the ——— day of ———, 19—, probate of the will of A.B., late of the ——— of ———, in the County of ———, deceased, was granted by this Court to I.K., and that since taking upon himself the said probate the said I.K. has become of unsound mind and unable to manage himself or his affairs, and that there is no committee or other person instructed by law with the management of his estate, it is ordered:

That letters of administration with the will annexed of the estate of the said A.B., deceased, be granted to he said C.D. for the use and benefit of the said I.K. during his lunacy and until he shall become of sound mind, and that the said probate of the will of the said A.B., deceased, be brought into the registry of the said Court and impounded during the lunacy of the said I.K.

Dated the ——— day of ———, 19—.

.....

Surrogate Judge.

1545. ORDER REVOKING PROBATE.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Upon reading the affidavit of ———, sworn on the ——— day of ———, and filed herein, whereby it appears that on the ——— day of ———, 19—, probate of the will of A.B., late of the ——— of ———, in the County of ———, farmer, deceased, bearing date the ——— day of ———, 19—, was granted to C.D., the sole executor therein named, and that it has since been discovered that the said A.B., deceased, made and duly executed a later will bearing date the ——— day of ———, 19—, whereof he appointed E.F.

sole executor, and the said probate having been voluntarily brought into and left in the Registry of the said Surrogate Court, and upon the application of the said ———, it is hereby ordered:

That the said probate be and the same is hereby revoked and declared to be null and void to all intents and purposes whatsoever.

Dated the ——— day of ———, 19—.

Surrogate Judge.

1546. ORDER TO BRING IN A TESTAMENTARY PAPER.

In the Surrogate Court of the County of ———.

Upon the application of A.B., of the ——— of ——— in the County of ———, ———, and upon reading the affidavit of C.D., of the ——— of ———, in the County of ———, ———, this day filed in the said Court, shewing that a certain original paper or script being or purporting to be testamentary, (*here describe the paper*), is now in the possession or under the control of E.F., of the ——— of ———, in the County of ———, ———, I do order that the said E.F., shall within ten days (*or the time prescribed by the Judge*), after the service hereof on *him* bring into and leave in the office of the Registrar of the said Court, the said original paper now in *his* possession or under *his* control; or in case the said original paper be not in *his* possession or under *his* control, that *he* shall within ——— days after the service hereof upon *him*, file in the said office an affidavit to that effect, and therein set forth what knowledge, if any, *he* has of and respecting the said original paper or script.

Dated at ——— the ——— day of ———, 19—.

Judge.

IV. LETTERS OF GUARDIANSHIP.

Act Respecting Infants, R.S.O. 1897, Ch. 168, Sec. 11

1547. PETITION FOR LETTERS OF GUARDIANSHIP.

Unto the Surrogate Court of the County of ———:

The petition of E.F. of the ——— of ——— in the County of ———, merchant, humbly showeth:

That G.M., late of the ——— of ——— in the County of ———, died on or about the ——— day of ——— 19—, leaving L.M. his natural and lawful child, the said L.M. being an infant of the age of ——— years, and that he the said L.M. resides at ——— in the County of ———:

That the said G.M. died intestate (*or as the case may be*) without appointing any curator or guardian of the said infant.

Wherefore your petitioner prays that he may be appointed guardian of the said infant, and that Letters of Guardianship may

be granted to him by this Honourable Court, pursuant to the statute in that behalf.

Dated this ——— day of ——— 19—.

1548. AFFIDAVIT VERIFYING PETITION.

In the Surrogate Court of the County of ———.

In the matter of the guardianship of the infant children of C.F.

I, A.B., of the ——— of ———, in the County of ——— (*addition*), make oath and say:

1. That I am the petitioner named and described in the said petition.

2. That the various facts, matters and things in the said petition contained and set forth are true in substance and in fact to the best of my knowledge and belief, and so far as I have been enabled to ascertain them.

This affidavit is filed on behalf of ———.

Note.—Besides the foregoing affidavit there must be furnished the proof required by Rule 2.

1549. OATH OF GUARDIAN.

In the Surrogate Court of the County of ———.

In the matter of the Guardianship of the Infant Child (*or* Children) of C.F., deceased.

I, A.B., of the ——— of ——— in the County of ———, (*addition*), make oath and say:

That I am the person applying to be appointed guardian of E.F., the infant child (*or as the case may be*) of C.F., deceased, in his lifetime of the ——— of ——— in the County of ———, who died on or about the ——— day of ——— 19—; that I will, if I am appointed such guardian, faithfully perform the trust of guardianship; and that I will, when my said ward becomes of the full age of twenty-one years, or whenever the said guardianship is determined, or sooner, if thereto required by the said Surrogate Court or by the Judge thereof, render to my said ward, or to his executors or administrators, a true and just account of all goods, moneys, interest, rents, profits, property or other estate of my said ward which shall have come into my hands, or possession, or under my control, and will thereupon, without delay, deliver and pay over to my said ward, or to his executors or administrators, the estate, or the sum or balance of money which may be in my hands, or possession, or under my control, belonging to my ward, deducting therefrom and retaining such reasonable sum for my expenses and charges as shall, upon an audit of my accounts, be allowed by the Court or the Judge.

This affidavit is fild on behalf of, etc.

1550. GUARDIAN'S BOND.

Know all men by these presents that we, A.B. of the ——— of ——— in the County of ———, (*addition*), and C.D. of &c., and E.F. of &c., are jointly and severally held and firmly bound unto G.H., J.K., L.M., &c., the infant children of ———, late of the ——— of ——— in the County of ———, deceased, and to each and every of them, in the sum of ——— dollars, to be paid to the said G.H., &c., their and each of their executors, administrators or assigns, for which payment to be well and truly made, we do bind ourselves, and each and every of us, our and every of our executors and administrators, respectively, firmly by these presents. Sealed with our seals. Dated the ——— day of ——— A.D. 19—.

Whereas the said A.B., being appointed guardian of the persons and estate of the said infants by the Surrogate Court of the ———, according to the statute in that behalf, is required to give security for the performance of the said trust:

Now the condition of this obligation is such that if the above bounden A.B. shall faithfully perform the said trust, and the said A.B. or his executors or administrators will, when the said wards respectively become of the full age of twenty-one years, or whenever the said guardianship shall be or is determined, or sooner if thereunto required by the said Surrogate Court, render to each of the said wards, or to their respective executors or administrators, a true and just account of all goods, moneys, interest, rents, profits, property or other estate of such wards which shall have come into the hands or possession or under the control of the said A.B., and will thereupon exhibit under oath and render into the said Court for audit and allowance a just and full account of his guardianship, and will thereupon without delay deliver and pay over to each and every of the said wards, or, to his or their executors or administrators, the estate or the sum or balance of money which may be in the hands or possession or under the control of him the said A.B., belonging to the said ward or wards, deducting therefrom and returning such reasonable sum for the expenses and charges of him the said A.B. as such guardian, as by the said Court or by the Judge thereof shall have been allowed, then this obligation to be void, otherwise to remain in full force and virtue. Signed, sealed and delivered

in the presence of

A.B. [SEAL.]
C.D. [SEAL.]
E.F. [SEAL.]

1551. AFFIDAVIT OF JUSTIFICATION—GUARDIAN'S BOND.

In the Surrogate Court of the County of ———.

In the matter of the Guardianship of the Infant Children of ———, deceased.

We, C.D., of &c., and E.F., of &c., severally make oath and say:

That we are the proposed Sureties on behalf of the intended Guardian of the infant children of ———, deceased, in the within Bond named, for the faithful performance of the Trust of Guardianship to him to be committed; and I, the said C.D., for myself make oath and say that I reside at ——— in the County of ———, and am worth property to the amount of ——— dollars, over and above all encumbrances, and over and above what will pay my just debts, and every other sum for which I am now bail, or for which I am liable as surety or endorser or othewise.

And I, the said E.F., for myself make oath and say that I reside at ——— in the County of ———, and am worth property to the amount of ——— dollars, over and above all encumbrances, and over and above what will pay my just debts and every other sum for which I am now bail, or for which I am liable as surety, or endorser or otherwise.

1552. AFFIDAVIT OF EXECUTION—GUARDIAN'S BOND.

In the Surrogate Court of the County of ———.

In the matter of the Guardianship of the Infant Children of ———, deceased.

I, ——— of ——— in the County of ——— (*addition*), make oath and say: That I was present and did see the within Bond duly executed by A.B., C.D. and E.F., three of the parties named therein; and that the name "———," set and subscribed as a witness thereto, is of the proper handwriting of me, this deponent, and that the same was executed at ——— in the County of ———.

1553. NOTICE OF APPLICATION—GUARDIANSHIP.

In the Surrogate Court of the County of ———.

To the Surrogate Clerk:

Take notice that application has been made to the Surrogate Court of the County of ——— by A.B. of &c., to be appointed guardian to E.F. and G.F., who reside at the ——— of ——— in the County of ———, infant children of C.F., late of, &c., who died a widower (*or as the case may be*) and without appointing any guardian of the said infants, the said A.B. being the maternal uncle (*or as the case may be*) of the said infants.

Application received the ———
day of ——— 19—.
This notice mailed the ———
day of ——— 19—.

Registrar of the said Court

1554. RENUNCIATION OF GUARDIANSHIP.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Whereas A.B., late of the ——— of ———, in the County of ———, deceased, died on the ——— day of ———, 19—, having made and duly executed his last will and testament, bearing date the ——— day of ———, 19—, and therein appointed C.D. sole executor and residuary legatee.

And whereas the said C.D. is now a minor or infant of the age of ——— years only.

And whereas I, the undersigned E.F., am the natural and lawful uncle and only next of kin of the said C.D.

Now I, the said E.F., do hereby renounce all my title in and to the guardianship of the said minor.

In witness whereof I have hereunto set my hand and seal this ——— day of ———, 19—.

Signed, sealed and delivered
in the presence of

1555. ELECTION BY MINORS OF A GUARDIAN.

In the Surrogate Court of the County of ———.

Whereas A.B., late of the ——— of ——— in the County of ———, deceased, died on or about the ——— day of ——— 19— at ——— in, &c., intestate, a widower, leaving C.D., E.F. and G.H. his lawful children and only next of kin, the said C.D. being a minor of the age of twenty years only, and the said E.F. being also a minor of the age of nineteen years only, and the said G.H. being an infant of the age of six years only:

Now we, the said C.D. and E.F. do hereby make choice of and elect K.L. of the ——— of ——— in the County of ——— our lawful maternal uncle and one of our next of kin (*or as the case may be*), to be our guardian, for the purpose of his obtaining letters of administration of the property of the said A.B., deceased, to be granted to him, until one of us attain the age of twenty-one years, (*or* for the purpose of renouncing for us, and on our behalf, all right, title and interest to and in Letters of Administration, &c. (*as the case may be*).

In witness whereof we have hereunto set our hands and seals this ——— day of ——— A.D. 19—.

Signed, Sealed, and
Delivered in presence
of

1556. ADVERTISEMENT.

Notice of Application for Letters of Guardianship.
Act respecting Infants, R.S.O. 1897, chap. 168, sec. 12. ....

NOTICE OF APPLICATION.

In the Surrogate Court of the County of ———.

In the matter of the Guardianship of A.B., the infant child of D.B. of the Village of ———, County of ———, Labourer, Deceased.

Notice is hereby given that after the expiration of twenty days from the first publication of this notice, application will be made to the Surrogate Court of the County of ———, for a grant of letters of guardianship of the above named infant to A.T., of the City of ———, and E.T., of the said Village of ———, builder, the aunt and uncle respectively of the said infant.

Solicitors for the Applicants.

Dated the ——— day of ——— 19—.

1557. LETTERS OF GUARDIANSHIP.

CANADA:

Province of Ontario.

In His Majesty's Surrogate Court of the County of ———.

Whereas A.B. of the ——— of ——— in the County of ———, (*addition*), by petition to the said Court did set forth that C.D. late of the ——— of ——— in the said County of ———, (*addition*), died on or about the ——— day of ——— one thousand nine hundred and ——— at the ——— of ——— in the County of ———, and had at the time of his death his fixed place of abode at the ——— of ——— in the County of ———, and that the said deceased died a widower, leaving him surviving E.F. and G.H. his natural and lawful children, who reside at the ——— of ——— in the County of ———; that the said E.F. is an infant of ——— years of age, and the said G.H. is an infant of ——— years of age; and that the said C.D. died intestate without having appointed a guardian of the said infants; and prayed that he might be appointed guardian of the persons and estates of the said infants pursuant to the Statute in that behalf, and that letters of guardianship might be granted to him by he said Court:

Be it known that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— the said A.B. was appointed guardian of the persons and estates of the said E.F. and G.H., and these letters of guardianship are accordingly granted by the said Court to the said A.B. with power and authority to him the said A.B. to do all such acts, matters and things as a guardian may or ought to do under and by virtue of any act of the Legislature of Ontario relating to minors and their property, he the said A.B.

having been first bound as required by law to perform the said trust and having been duly sworn faithfully to perform the trust of guardianship, and that he will when his said wards respectively become of the full age of twenty-one years, or whenever the said guardianship is determined, or sooner if thereunto required by the said Surrogate Court or by the Judge thereof, render to his said wards or to their executors or administrators a true and just account of all goods, moneys, interests, rents, profits, property or other estate of his said wards, which shall have come into his hands or possession or under his control, and will thereupon without delay deliver and pay over to his said wards or to their executors or administrators the estate or the sum or balance of money which may be in his possession or under his control belonging to his said wards, deducting therefrom and retaining such reasonable sum for his expenses and charges as shall upon an audit of his accounts be allowed by the Court or the Judge.

[SEAL.]

Registrar of the Surrogate Court,
of the County of ———.

V. Passing Accounts.

1558. ADVERTISEMENT FOR CREDITORS.

Of Deceased Person Given by Executor or Administrator.

NOTICE TO CREDITORS.

In the matter of the estate of ———, late of the ——— of ———, in the County of ———, Manufacturer, deceased.

Notice is hereby given pursuant to "The Revised Statutes of Ontario" 1897, chapter 129, that all creditors and others having claims against the estate of the said ———, who died on or about the ——— day of———, 19—, are required, on or before the——— day of ———, 19—, to send by post prepaid or deliver to Messrs. ———, of the ——— of ———, Solicitors for ———, the administrators with the will annexed of the last will and testament of the said deceased, their Christian and surnames, addresses and descriptions, the full particulars of their claims, the statement of their accounts and the nature of the securities, if any, held by them.

And further take notice that after such last mentioned date the said administrators with the will annexed will proceed to distribute the assets of the deceased among the parties entitled thereto, having regard only to the claims of which they shall then have notice, and that the said administrators with the will annexed will not be liable for the said assets or any part thereof to any person or persons of whose claims notice shall not have been received by them at the time of such distribution.

Dated the —— day of ———, 19—.

Solicitors for ———, administrators with the will annexed of ———, deceased.

1559. AFFIDAVIT OF CLAIM.

CANADA:

Province of ———, } In the matter of the estate of A.B., &c.,
County of ———, } deceased.

To wit:

I, ——— (*name in full*) of the ——— of ——— in the County of ———, ———, make oath and say:

1. I am the above claimant (*or*, a member of the above named firm of claimants, *or*, the duly authorized agent of the above named claimant).

2. The above named A.B. was in his lifetime and his estate still is justly and truly indebted to me (*or*, the above named claimant) in the sum of ——— dollars for (goods supplied to the said debtor at his order, and for promissory notes, bills of exchange, *or*, money lent, etc.), that is to say: ——— (*or*, and the particulars of the said indebtedness are set out in the statement hereto annexed).

3. I hold (*or*, the said claimant holds) no security whatever for the said claim or any part thereof (*or*, the following security, that is to say: ——— which is of the value of ——— dollars).

1560. NOTICE OF CONTESTATION OF CLAIM.

Surrogate's Courts Act. Sec. 18a.

In the matter of the estate of A.B., late of, &c., deceased.

To ———.

You are hereby notified, pursuant to the provisions of the Surrogate Courts Act, Section 18a, that I contest your claim against the estate of the above named A.B. for $———, the amount of your claim filed with me.

And you are hereby further notified that unless within thirty days after the receipt by you of this notice, or within such further time as may be allowed on application to the proper Judge in that behalf, an application is made to allow the said claim, your claim shall be forever barred.

And you are hereby further notified that service of any writ or process to enforce the said claim may be made upon my solicitor, A.B. of, etc.

Dated at ——— the ——— day of ——— 19—.

1561. NOTICE OF APPLICATION TO ALLOW CLAIM.

Under 9 Edw. VII. (1909), Ch. 32.

In the Surrogate Court of the County of ———.

In the matter of the estate of A.B., late of, &c., deceased.

Take notice that an application will be made to the Judge of the Surrogate Court of the County of ——— on the ——— day of ——— 19— at the hour of ——— in the forenoon at his chambers

at ——— on behalf of C.D. of, &c., for an order allowing his claim against the said estate and determining the amount thereof.

And in support of such application will be read the affidavit of ——— this day filed.

Dated at ——— the ——— day of ——— 19—.

To G.H. E.F.

Executor of A.B. Solicitor for the said C.D

(*If infants are interested add:*

and to the Official Guardian.

1562. PETITION TO PASS ACCOUNTS.

In the Surrogate Court of the ——— County of ———.

In the estate of ———, deceased.

To ———, Esquire, Judge of the Surrogate Court of the———.

The petition of ——— sheweth:

1. That the ——— of the ——— of ———, in the ——— County of ———, departed this life on or about the ——— day of ———, in the year of our Lord 19—.

2. That your petitioner ——— on the ——— day of ———, A.D. 19—, duly appointed ——— of the said deceased, as shewn by the records of this honourable Court ———.

3. That your petitioner ——— ha administered the said estate and effects of the said deceased to the best of ——— ability, so far as the same can be administered at this time.

4. That your petitioner ha brought in and filed with the Registrar of this Court, a full and correct account of ——— administration of the said estate, shewing all the personal property, money and effects, and real estate and proceeds thereof which ha come into ——— hands as such ———, and also a full and correct account of all ——— disbursements as such ——— with a full and correct statement of the assets yet undisposed of.

5. Your petitioner therefore pray that the said accounts may be audited, taken and passed, by and before this honourable Court.

6. Your petitioner further pray that ——— may be allowed a fair and reasonable allowance for ——— care, pains and trouble, and time expended in and about the estate of the said ———, deceased, and in administering, disposing of and arranging and settling the affairs of the said estate.

7. Your petitioner ha not hitherto been ordered any compensation for the services in the last preceding paragraph referred to, either by this Court or by any other competent Court, except

8. That the only persons interested in the administration of the estate as beneficiaries of the said deceased, are as follows:

and that all the said persons are of the full age of twenty-one, except

9. That your petitioner know of no creditors of the estate of the said deceased who still have unsettled claims against the estate of the said deceased, which your petitioner consider to be valid, except ———, and that the only portion of the estate of the said deceased that remains unadministered by your petitioner is as follows, namely: ——— and that the reason of the non-administration thereof is the following, namely:

Dated at ———, this ——— day of ———, A.D. 19—.

This petition is presented by ———
Solicitor for the above-named Petitioner.

1563. APPOINTMENT TO PASS ACCOUNTS.

In the Surrogate Court of the ——— Count of ———.

In the estate of A.B., deceased.

Upon reading the petition of ——— of the ——— of ———, deceased, and the petitioner having brought in and deposited with the Registrar of this Court the accounts of ———, receipts and expenditures in respect of the said estate, I appoint ——— the ——— day of ———, A.D. 19—, at ——— o'clock in the ——— noon, at my chambers in the Court House in ———, as the time and place for the purpose of examining, auditing and passing the said accounts.

And to fix the compensation to be allowed to ———, if any, for ——— care, pains, trouble and time expended in and about the said estate ———, and in administering, disposing of, arranging and settling the same.

And I do order that all persons who are or may be interested in the estate of the said ———, deceased, attend at the said time and place ———.

And I do order that a copy of this order and appointment at least ——— days before the day above appointed be served on ———.

Dated at ———, this ——— day of ———, A.D. 19—.

.....
Judge.

This appointment is taken out by ——— Solicitor for the above-named ———.

NOTE.—*The accounts of the said ——— may be examined by the parties interested therein or their solicitors, at the office of the Registrar of this Court at* ———.

1564. AFFIDAVIT VERIFYING ACCOUNTS.

In the Surrogate Court of the ——— Count of ———.

In the estate of ———, deceased.

I, ———, of the ——— of ———, in the ——— Count of ———, make oath and say:

1. That I was appointed by this honourable Court, ——— of the said deceased.

2. That the account now shewn to me marked "A" sets forth a true and correct account of all the personal estate and effects; and of the real estate and proceeds thereof of the said estate, which have come into my hands, or into the hands of my co- ——— or of any other person or persons on ——— behalf, so far as I know, and also the names of the parties from whom the same have been received, and the dates at which the same were received, to the best of my knowledge and belief.

3. That the account marked "B," now also shewn to me, sets forth a true and correct account of all the disbursements and payments made by me or by my co- ——— or any other person for and on account of the said estate, to the best of my knowledge and belief.

4. That save and except what appears in the said account marked "A" I have not nor ha my co- ——— or of any one on ——— behalf, so far as I know, ever received or got in any part of the said deceased's personal estate or effects, or the real estate, or the proceeds thereof during our administration of the said estate.

5. That the available assets of the said estate still undisposed of and in the hands of myself and my co- ——— or of any other person or persons for ——— except as hereinafter mentioned are correctly set forth in the account marked "C" now shewn to me.

6. That there is not to my knowledge or belief, any personal or real estate outstanding and unrealized in this matter save and except ———.

7. That I have not received nor been awarded or adjudged by this Court any compensation whatever for the care, pains and trouble expended by me in and about the said estate.

This affidavit is filed on behalf of the ——— Solicitor for the ———.

1565. ACCOUNTS.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

This is schedule "A" referred to in the affidavit of ———, sworn before me this ——— day of ———, 19—.

"A" RECEIPTS.

Then set out in detail all receipts, keeping those on capital account and those from rents, interest, etc., separate.

"B" DISBURSEMENTS.

To schedule "B," which shews, with dates and items in detail, the disbursements, should be added a memorandum shewing in detail the disposition made of each such specific gift.

Schedule "C" shews in detail all assets still on hand; its form is similar to "A" and "B."

The items in Schedule "B" should be numbered consecutively, and the vouchers should also be numbered and arranged in order of the items.

Any documents shewing the amount of particular receipts as shewn in schedule "A," may be similarly dealt with.

1566. ORDER ON PASSING ACCOUNTS.

In the Surrogate Court of the ——— Count of ———.

In the estate of ———, deceased.

Upon reading the petition of ———, of the said estate and the affidavits and accounts brought in and filed with the Registrar of this Court, I, ———, Esquire, Judge of the Surrogate Court of the County of ———, did by order of the ———, day of ———, A.D. 19—, require that all persons interested in the estate of the said deceased, should attend at my Chambers in the Court House in ———, on the ——— day of ——— A.D. 19—, at which time and place I would proceed to audit and pass the said accounts, and also to fix the compensation to be allowed to the said ——— for ——— care, pains and trouble and time expended in or about the said estate.

And having on the ——— day of ———, A.D. 19—, proceeded to take and audit and pass the said accounts, pursuant to the said order, in the presence of ———.

I find and declare that the total amount of the personal estate and effects of the said deceased, which came into the hands of the said ———, amount to $———, and that the proceeds of the real estate of the said deceased, which came into the hands of the said ———, amount to $———, being a total of real and personal assets amounting to $———, and I find and declare that the said ——— ha properly paid out and disbursed in the due course of administration of the said estate the sum of $———.

And I do hereby in pursuance of the prayer of the said petition of the said ———, order and allow ——— the sum of $——— as a fair and reasonable allowance for ——— care, pains and trouble, and time expended in and about the administering and arranging and settling the affairs of the said estate to the present time.

And I do order that the costs of taking, auditing and passing the said accounts, and fixing the said compensation amounting to $———, as taxed by the Registrar of the Court, be allowed to the

said ———, and having deducted the amounts so disbursed and expended and the said compensation and costs from the amount in the hands of the said ———, I find that there remains in the hands of the said ——— the sum of $———.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Judge.

This order is taken out by ——— Solicitor for the above-named Petitioner.

VI. Contentious Proceedings.

1567. CAVEAT.

In the Surrogate Court of the County of ———.

In the estate of ———, deceased.

Let nothing be done in the estate of ———, late of the City of ——— in the County of ———, widow, deceased, who died on or about the ——— day of ——— A.D. 19—, at the said City of ———, and had at the time of her death a fixed place of abode at the City of ———.

The ground on which this caveat is entered by and on behalf of ——— of the City of ——— in the County of ———, who is the lawful niece and one of the next of kin and heiresses-at-law of the deceased, is that she requires the alleged Will of the said deceased to be proved in solemn form.

Dated at ——— this ——— day of ——— A.D. 19—.

G. H.

of the ——— of ——— in the County of ———, Solicitor for said ———.

1568. NOTICE OF CAVEAT.

In the Surrogate Court of the County of ———.

To the Surrogate Clerk:

In the Estate of ———, deceased.

A caveat, of which the following is a copy, has this day been lodged with me: "Let nothing, &c." (*here copy caveat at length and verbatim*).

Dated at ——— the ——— day of ——— 19—.

Registrar.

1569. WARNING TO CAVEAT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

To G. & H. of the City of ——— in the County of ———, solicitors for ——— of the City of ———, at the instance of C.D. and E.F., both residing in the City of ——— in the County of ———,

executors of and under the last will and testament of A.B., late of the said City of ———, widow, deceased: You are hereby warned that within ten days after the service of this warning upon you, inclusive of the day of such service, you cause an appearance to be entered for your client above named in the office of the Surrogate Court of the County of ——— to the caveat entered by you in the estate of A.B., late of the City of ———, widow, deceased, who died on or about the ——— day of ——— A.D. 19— at the said City of ———, and had at the time of her death a fixed place of abode at the said City of ———, and to set forth your client's interest:

And take notice that in default of your so doing the said Court will proceed to do such acts, matters and things as shall be needful and necessary to be done in and about the premises.

Dated at ——— this ——— day of ——— A.D. 19—.

Registrar of the Surrogate Court of the County of ———.

G. & H.
Solicitors for the said Executors.

1570. AFFIDAVIT OF SERVICE OF WARNING.

And of Non-appearance Thereto.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, clerk, make oath and say:

1. That I did on the ——— day of ———, 19—, duly serve ——— of ——— with a true copy of the warning now hereunto annexed, marked "A," by delivering such copy to and leaving the same with ———, a clerk in the office of the ———, solicitors, at their office aforesaid.

2. That I did on the ——— day of ———, 19—, duly and carefully search the book kept in the office of the Registrar of the said Court for entering appearances from the said ——— day of ——— (*day of service*), to the present day inclusive, to ascertain whether or not any appearance to the said warning had been entered.

3. No appearance to the said warning has been entered by or on behalf of any person or persons whomsoever.

1571. APPEARANCE TO WARNING.

In the Surrogate Court of the County of ———.

In the estate of ———, deceased.

Enter an appearance herein for ———, of the City of ——— in the County of ———, to the Caveat entered by him herein.

The said ——— is a nephew of the said deceased, and his father, who was a brother of said deceased, is dead.

Dated at ——— this ——— day of ——— A.D. 19—.

———, of the City of ———
in the County of ———,
Solicitor for said ———.

1572. AFFIDAVIT OF CREDITOR TO LEAD ORDER OF CITATION.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, make oath and say:

1. That the said A.B., late of the ——— of———, in the County of ———, (*occupation*), deceased, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, intestate, a bachelor without parent, brother or sister, uncle or aunt, nephew or niece, cousin german or any other known relation.

2. That the said deceased was at the time of his death justly and truly indebted to me in the sum of ——— dollars of lawful money of Canada (*here set out shortly the nature of the indebtedness*), and that no part of such sum has been since received by me or by any person on my behalf, but that the whole thereof still remains justly due and owing to me.

3. That I hold no security whatever for the said indebtedness or any part thereof.

4. That the estate of the said deceased consists of (*here set out the amount and particulars*).

1573. AFFIDAVIT TO LEAD CITATION FOR LIMITED GRANT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

We, E.B., of the ——— of ———, in the County of ———, widow, and J.B., of the same place, merchant, severally make oath and say:

1. In and by an adventure bearing date the ——— day of ———, 19—, and made between, etc., certain moneys of and belonging to me, this deponent, then E.C., in the said indenture particularly mentioned and described, were in consideration of the marriage then intended to be had and solemnized between her, the said E.C. and J.B., in the said indenture mentioned, assigned and transferred to the said A.B. and C.D., their executors, administrators and assigns, to hold the same upon trust, that they, the said A.B. and C.D., or the survivors of them, or the executors or administrators of such survivors, should invest the same upon Government or real security and pay the interest and dividends thereof

to me, the said E.C., during my life and after my decease for all and every the children and child of the said E.C. and J.B., and if only one child then for such one child only, the principal to be vested in the said children or child on their or his or her attaining the age of twenty-one years.

2. The said intended marriage was shortly afterwards duly had and solemnized between me, this deponent, then E.C., spinster, and the said J.B., and there is issue of the said marriage one child only to wit, I, the said J.B.

3. I, the deponent, J.B., have attained the age of twenty-one years.

4. The said J.B., the father, died on the ——— day of ———, 19—.

5. The said A.B. and C.D., the trustees aforesaid, lent and invested a sum of $1,000, part of the said trust moneys, upon a mortgage of certain leasehold premises, situate at ———, in the County of ———, and belonging to ——— of ———.

6. The said sum of $1,000 still remains so lent and invested as aforesaid.

7. The said A.B. and C.D. are both now dead.

8. The said A.B. survived his co-trustee, the said C.D.

9. The said A.B. was of ———, and died on the ——— day of ———, 19—, a widower and intestate, leaving E.F., his natural and lawful son and only next of kin, and the sole person entitled to his personal estate him surviving, who resides at ———.

10. Letters of administration of the estate of the said A.B., deceased, have not yet been taken out by the said E.F., or by any other person.

11. We, these deponents, are respectively the only persons beneficially interested in and entitled to the said sum of $1,000 so lent and invested as aforesaid, and in and to the interest and dividends due and to grow due thereon, to wit, I, the said E.B., to the interest and dividends thereof for and during my life, and I, the said J.B., the son, to the principal after the decease of the deponent, the said E.B., but the same cannot be duly administered under and according to the trusts of the said indenture until in respect thereof a legal personal representation of the said A.B., deceased, shall have been constituted by the authority of the proper Surrogate Court in that behalf or otherwise.

12. We, these deponents, are desirous of obtaining letters of administration of the estate of the said A.B., deceased, limited so far only as concerns all the right, title and interest of him, the said A.B., in and to the aforesaid sum of $1,000 so lent and invested as aforesaid, and all interest and dividends now due and to grow due thereon, but no further or otherwise to be granted to a person to be nominated by us for that purpose.

1574. AFFIDAVIT OF SERVICE OF CITATION.

In the Surrogate Court of the County of ———.

In the estate of G.H., deceased.

Between

A.B., plaintiff, and

C.D., defendant.

I, C.D., of the ——— of ———, in the County of ———, solicitor's clerk, make oath and say:

1. That I did on the ——— day of ———, personally serve E.F., of the ——— of ———, in the County of ———, gardener, with a true copy of the Citation Order issued out of the said Court in the above-named matter, and now hereunto annexed, marked "A," by delivering such copy to and leaving the same with him at the ——— of ———, in the County of ———, and at the same time at his desire and request I shewed him the original thereof.

1575. AFFIDAVIT OF NON-APPEARANCE TO CITATION.

(*Formal Parts.*)

I, G.H., of the ——— of ———, in the County of ———, clerk, make oath and say:

1. On the ——— day of ———, an Order of Citatiton was issued out of the said Court and the same was duly served on ———, as appears by the Affidavit of Service thereof made by L.M., duly filed herein.

2. On the ——— day of ———, 19—, I duly and carefully searched the book kept in the office of the Registrar of the Surrogate Court of the County of ———, for the entry of appearances from the said day of ——— to the present day, the ——— day of ——— instant, to ascertain whether or not any appearance to the said Order of Citation had been entered and no appearance to the said Order of Citation has been entered either by or on behalf of the above-named defendant.

1576. AFFIDAVIT TO LEAD CITATION.

To Exhibit an Inventory.

1. The said A.B., late of ——— in the County of ———, accountant, deceased, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, intestate, leaving him surviving M.B., his lawful widow and relict, and L.S., wife of M.S., me this deponent and D.B., spinster, his natural and lawful and only children, and only next of kin respectively, the only persons entitled in distribution to his estate.

2. On the ——— day of ———, 19—, letters of administration of the estate of the said deceased were granted by the Surrogate Court of the County of ——— to the said M.B., the lawful widow and relict of the said deceased.

3. The said M.B. has sworn the value of the estate of the said deceased to amount to ——— dollars, but I verily believe the same to be considerably less than the true amount and value thereof.

4. That part of the said estate consists of stock and growing crops which should be forthwith valued and appraised before the same are removed or sold in order that the true value thereof as assets belonging to the said estate may be satisfactorily ascertained.

5. Under the circumstances mentioned in the preceding paragraphs of this affidavit and upon other grounds, I am desirous of obtaining from the said Surrogate Court an order in the nature of a citation calling upon the said M.B. to exhibit upon and by virtue of her corporal oath a true and perfect inventory of all and singular the estate of the said deceased.

1577. AFFIDAVIT TO LEAD CITATION.

To Accept or Refuse Administration.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

I, C.D., of the ——— of ———, in the County of ———, tailor, make oath and say:

1. That A.B., late of the ——— of ———, in the County of ———, joiner, died on or about the ——— day of ———, 19—, at the ——— of ———, in the County of ———, intestate, without child or parent, leaving E.B., his lawful widow and relict, him surviving.

That the said E.B. has not taken upon her as yet the letters of administration of the estate of the said deceased.

3. That I am the natural and lawful brother and one of the next of kin of the said deceased, and am desirous of obtaining the letters of administration of the estate of the said deceased.

4. That the estate left by the said deceased consists of (*state the nature and amount of the property*).

1578. NOTICE OF ORDER OF CITATION FOR PUBLICATION.

In the Surrogate Court of the County of ———.

To C.D.

Take notice that an order has issued directing you to cause an appearance to be entered for you in the office of the Registrar of the Surrogate Court of the County of ———, at ———, within thirty days after publication hereof and accept or refuse letters of administration of all the estate which by law devolves upon and vests in the personal representative of A.B., late of the ——— of ———, in the County of ———, grocer, deceased, or shew cause why letters of administration of the said estate should not be granted to E.F. And it is further ordered that in default of your appearance letters of administration may be granted to the said E.F.

G. H.,
Registrar.

1579. ORDER OF CITATION.

By Creditor Against Next of Kin, if any.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of C.D., and upon reading the affidavit of C.D. filed herein, whereby it appears that A.B., late of the ——— of ———, in the County of ———, painter, died on or about the ——— day of ———, at the ——— of ———, in the County of ———, intestate, a widower, without child or parent, brother or sister, uncle or aunt, nephew or niece, cousin german or other known relation, and that the said C.D. is a creditor of the said deceased.

It is ordered that the next of kin, if any, and all other persons having or claiming any interest in the estate of A.B., deceased, within (one month) after service by publication hereof on them, do cause an appearance to be entered for them in the office of the Registrar of the Surrogate Court of the County of———, at———, and accept or refuse letters of administration of all the estate which by law devolves upon and vests in the personal representative of the said deceased, or shew cause why the same should not be granted to the said C.D.

And it is further ordered that in default of the said next of kin, if any, or any other person having or claiming any interest in the estate of A.B., deceased, so appearing and accepting or extracting the said letters of administration, the said C.D. may proceed to obtain the grant of letters of administration of the said estate notwithstanding the absence of the said next of kin and all other persons having or claiming any interest in the estate of the said A.B., deceased.

Dated at the ———, the ——— day of ———, A.D. 19—.

.....

Judge.

1580. ORDER OF CITATION.

To Accept or Refuse Probate.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

C.D., plaintiff, and

G.H., defendant.

Upon the application of C.D., and upon reading the affidavit of C.D. filed herein, whereby it appears that A.B., of the ——— of ———, in the County of ———, farmer, died on or about the ——— day of ———, at ———, and that the said A.B. had made

and duly executed his last will and testament and thereof appointed G.H. executor, but did not therein name any residuary legatee or devisee, and whereas it further appears by the said affidavit that the said deceased died a bachelor without parent, and that the said C.D. is the natural and lawful brother and one of the next of kin of the said deceased.

It is ordered that the said G.H. within ten days after the service upon him of this order do appear either personally or by a solicitor and enter an appearance herein in the office of the Surrogate Court of the County of ———, at ———, and accept or refuse probate of the said will or shew cause why letters of administration with the said will annexed of all the estate which by law devolves upon and vests in the personal representative of the said deceased, should not be granted to the said C.D.

And it is further ordered that in default of the said G.H. so appearing and accepting probate of the said will, the said C.D. may proceed to obtain letters of administration with the said will annexed, notwithstanding the absence of the said G.H.

Dated at ———, the ——— day of ———, A.D. 19—.

.....

Judge.

1581. CITATION TO ACCEPT OR REFUSE ADMINISTRATION.

Upon the application of C.D., and upon reading the affidavit of C.D. filed herein, whereby it appears that A.B., late of the——— of ———, in the County of ———, carpenter, died on or about the ——— day of ———, at the ——— of ———, in the County of ———, intestate, a widower without child or parent, leaving G.H., his natural and lawful brother his only next of kin, and that the said C.D. is the lawful nephew and one of the persons entitled in distribution to the estate of the said deceased, being the natural and lawful son of ———, the natural and lawful sister of the said deceased, who died in the lifetime of the said deceased.

It is ordered that the said G.H., within ten days after the service upon him of this order do cause an appearance to be entered for him in the office of the Registrar of the Surrogate Court of the County of ———, at ———, and accept or refuse letters of administration of all the estate which by law devolves upon and vests in the personal representative of the said deceased, or shew cause why same should not be granted to the said C.D.

And it is further ordered that in default of the said G.H. so appearing and accepting and extracting the said letters of administration the said C.D. may proceed to obtain the grant of letters of administration of the said estate, notwithstanding the absence of the said G.H.

Dated the ——— day of ———, 19—.

.....

Judge.

1582. CITATION TO BRING IN PROBATE.

(*Another Will Set Up.*)

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of C.D., of the ——— of ———, in the County of ———, and upon reading the affidavit of E.F., filed herein, whereby it appears that probate of the original last will and testament of A.B., late of the ——— of ———, in the County of ———, painter, deceased, was on the ——— day of ——— granted to G.H. by the Surrogate Court of the County of ———, and it is alleged in the said affidavit that the said deceased made and duly executed his last will and testament, dated the ——— day of ——— and appointed the said C.D. executor thereof, and that the said probate ought to be called in and revoked and declared null and void in law.

It is ordered that the said G.H. do within ten days after the service on him of this order bring into and leave in the office of the Registrar of the Surrogate Court of the County of ——— the aforesaid probate in order that the said C.D. may proceed in due course of law for the revocation of the same.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Judge.

1583. ORDER OF CITATION TO BRING IN ADMINISTRATION.

(*Will Set Up.*)

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of C.D., of the ——— of ———, in the County of ———, physician, and upon reading the affidavit of the said C.D., filed herein, whereby it appears that letters of administration of all the estate which by law devolves upon and vests in the personal representative of A.B., late of the ——— of ———, in the County of ———, farmer, deceased, were on the ——— day of ——— granted to E.F. by the Surrogate Court of the County of ———, and it is alleged in the said affidavit that the said deceased made and duly executed his last will and testament, dated the ——— day of ———, 19—, and appointed the said C.D. executor thereof, and that the said letters of administration ought to be called in, revoked and declared null and void in law.

It is ordered that the said E.F., within ten days after the service upon him of this order do bring into and leave in the office of the Registrar of the Surrogate Court of the County of ———, the aforesaid letters of administration, in order that the said C.D. may proceed in due course of law for the revocation of the same.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Judge.

1584. ORDER OF CITATION TO BRING IN ADMINISTRATION.

(Administrator Alleged Not to be Entitled.)

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of C.D., of the ——— of ———, in the County of ———, drayman, and upon reading the affidavit of the said C.D., filed herein, whereby it appears that letters of administration of all the estate which by law devolves upon and vests in the personal representative of A.B., late of the ———, of ———, in the County of ———, baker, deceased, were on the ——— day of ———, 19—, granted to E.F. by the Surrogate Court of the County of ———, as a natural and lawful brother and one of the next of kin of the said deceased, and it is alleged in the said affidavit that the said E.F. is not one of the next of kin of the said deceased, and that the said deceased died a widower, leaving the said C.D., his natural and lawful son and only next of kin, and that the said letters of administration ought to be called in and revoked and declared to be null and void in law.

It is ordered that the said E.F. do within ten days after the service upon him of this order bring to and leave in the office of the Registrar of the Surrogate Court of the County of ———, the aforesaid letters of administration in order that the said C.D. may proceed in due course of law for the revocation of the same.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Judge.

1585. ORDER OF CITATION TO EXHIBIT INVENTORY AND ACCOUNT.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of C.D., of the ——— of ———, in the County of ———, butcher, and upon reading the affidavit of

———, filed herein, whereby it appears that on the ——— day of ———, 19—, letters of administration of the estate of A.B., deceased, were granted by the Surrogate Court of the County of ———, to E.F., the lawful widow and relict of the said deceased, and that the said C.D. is a creditor of the said deceased.

It is ordered that the said E.F. do within ten days after the service upon him of this order cause an appearance to be entered for him in the office of the Registrar of the Surrogate Court of the County of ———, and by virtue of his corporeal oath, exhibit, bring into, and leave in the said Registry a true and perfect inventory of all the estate of the said deceased which has at any time since his death come into the hands of the said E.F., or into his possession or knowledge, and by virtue of his right to render a just and true account of his administration thereof.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Judge.

1586. MOTION PAPER.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

A.B., plaintiff, and
C.D., defendant.

A.B., late of the ——— of ———, in the County of ———, grocer, died on or about the ——— day of ———, at ———, intestate, died on or about the ——— day of ———, at ———, intestate, without child or parent, leaving the said E.F., his lawful widow and relict, and the said C.D., his natural and lawful brother and only next of kin; the said E.F. having deferred taking upon her letters of administration of the estate of the said deceased, the said C.D., on the ——— day of ———, 19—, extracted a citation out of this Court against her, the said E.F., to accept or refuse letters of administration of the estate of the said deceased or shew cause why the same should not be granted to him, the said C.D.

The said order of citation was afterwards on the ——— day of ——— personally served on the said E.F., and was on the ——— day of ——— returned into this Court.

No appearance has been entered to the said citation. The foregoing averments are proved by affidavits.

The Court will be moved by counsel to decree letters of administration of the estate of the said deceased to be granted to the said A.B.

1587. ORDER FOR PROOF IN SOLEMN FORM.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of the plaintiff to prove the will of the said ——— in solemn form, upon reading the petition of the plaintiff and the affidavits of the plaintiff and of ——— filed herein.

1. It is ordered that a copy of the said petition and of this order be served upon each of the said defendants who are the next of kin of the deceased (*or as the case may be*).

2. In case any of the said defendants desire to dispute the validity of the said will or to attend and examine the witnesses to the execution thereof, he or they do cause an appearance to be entered for him or them in the office of the Registrar of this Court at the Town of ———, in the County of ——— within ten days after such service as aforesaid upon him or them.

3. In case none of the said defendants enter an appearance herein, the said plaintiff shall proceed to prove the said will in solemn form before me at the ——— of ———, in the County of ———, on ——— day the ——— day of ———, at the hour of ——— o'clock in the ——— noon, and in the event of any of the said defendants entering an appearance herein the plaintiff and such defendants so appearing shall attend before me in person or by their solicitors at the time and place aforesaid to receive directions for further proceedings in the said action.

4. The costs of this application and order are reserved to be disposed of at the trial or other disposition of this action.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Surrogate Judge.

1588. PROCEDURE ORDER.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon the application of the plaintiff; upon reading the affidavit of the plaintiff filed herein, whereby it appears that the defendants have entered an appearance to the order of citation herein, and the affidavit of ———, one of the defendants, and upon hearing counsel for the respective parties, it is ordered:

1. That the plaintiff do within ——— from this date file and serve a statement of claim.

2. That the defendants do within eight days after the filing and service of the statement of claim, file and serve their statement of defence thereto, and after the delivery of such statement of defence the plaintiff shall be entitled within ——— thereafter to file and serve a reply or joinder of issue.

3. That any party hereto may after the said statement of defence has been delivered, or the plaintiff may after the time for delivery of the same has expired, obtain an order for production according to the rules and practice of the High Court of Justice, such order to be issued by the Registrar of the said Court under the seal thereof on *præcipe*.

4. That the plaintiff may after the service of the statement of defence as aforesaid, and the defendants or any of them may after the time for delivery thereof has expired, upon *præcipe* order to be issued by the Registrar of the said Court, be orally examined before the said Registrar, at such time and place as he shall appoint for discovery under and pursuant to the rules and practice of the High Court of Justice in that behalf.

5. That either party shall be entitled to obtain the production and inspection of documents from the opposite party or parties in the same manner and to the same extent as in an action in the High Court of Justice and under the Rules and practice of the High Court.

6. That either party may call upon the other to admit any documents, saving all just exceptions, in the same manner as in an action of the High Court of Justice and under the rules and practice thereof.

7. That after issue joined either party may upon notice apply for and obtain an order for the trial of this action at a time to be fixed by such order, and the said order shall be served upon all parties entitled to notice of such trial ten days before the trial thereof in the same way and with the same effect as notice of trial is served in an action in the High Court and subject to the rules and practice of the High Court.

8. That either party may apply upon two clear days' notice to the other for such further or other directions as may be necessary for the proper conduct or trial of this action.

9. That the costs of and incidental to this application and of and incidental to any matter or proceeding hereinbefore authorized, directed or ordered, shall be costs in the cause unless otherwise ordered.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Surrogate Judge.

Tax a counsel fee of

1589. ORDER FOR ATTENDANCE OF WITNESSES.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

C.D., plaintiff, and

E.F., G.H., and I.J., defendants.

Upon the application of C.D., and upon reading the statement of claim and statement of defence filed herein, it is ordered:

That L.M., N.O. and P.Q. do attend before me at my Chambers in the Court House at the Town of ———, in the County of———, on ——— day the ——— day of ———, at the hour of ——— in the ——— noon to give evidence on behalf of the plaintiff and do bring with them and produce at the time and place aforesaid.

Dated at ———, this ——— day of ———, A.D. 19—.

.....

Judge.

1590. ORDER APPOINTING ADMINISTRATOR AD LITEM.

In the Surrogate Court of the County of ———.

(*Name of Judge.*)

In Chambers (*Date.*)

Between

A.B., plaintiff, and

C.D., defendant.

Upon the application of (*the plaintiff*) and upon reading the affidavits of ———, filed, and upon hearing counsel for ———:

1. It is ordered that ——— of ———, in the County of ——— (*occupation*), be and he is hereby appointed to represent in this action, and that the administration of the real and personal estate and effects, rights and credits of the said ———, in his lifetime of the ——— of ———, in the County of ——— (*occupation*), deceased, who died at ———, in the County of ——— aforesaid, on or about the ——— day of ———, 19—, and who at the time of his death had a fixed place of abode at ———, be and the same is hereby granted to the said ———, limited for the purpose only of attending, supplying, substantiating and confirming the proceedings already had or which may hereafter be had in this action; and to obey and carry into execution all orders and directions of this Court relating to this action until judgment shall be entered herein and the same carried into execution, and the execution thereof fully completed, but no further or otherwise or in any other manner whatsoever.

Add if necessary: 2. And it is further ordered that the giving of security by the said administrator for the due fulfilment of his duties as such administrator be and the same is hereby dispensed with.

1591. ORDER ASSIGNING GUARDIAN TO AN INFANT CITED.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Upon reading the affidavit of E.F., wherein it appears that an order has issued out of the Surrogate Court of the County of———, bearing date the ——— day of ———, 19—, at the instance of the said plaintiff, alleging himself to be a creditor of the said deceased, citing the said defendant, the residuary legatee named in the last will and testament of the said A.B., deceased, bearing date the ——— day of ———, 19—, to accept or refuse letters of administration with the said will annexed of the estate of the said A.B., deceased, or shew cause why the said letters of administration with the said will annexed of the said estate should not be committed and granted to the said plaintiff as a creditor of the said deceased; and it further appearing by the said affidavit that the said defendant is now an infant of the age of ——— years only, and that E.F. is the lawful grandfather and next of kin of the said infant and is ready and willing to accept the guardianship of the said infant for the purpose of appearing to the said citation and accepting the said letters of administration with the said will annexed of the said estate as his guardian, to be granted to him for the use and benefit of the said infant until he shall attain the age of twenty-one years, it is ordered:

That the said E.F. be and he is hereby assigned guardian to the said infant for the purpose aforesaid.

Dated the ——— day of ———, 19—.

Surrogate Judge.

1592. ORDER FOR GRANT TO PARTY CITED.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

———, plaintiff, and

———, defendant.

Whereas it appears by the affidavit of ———, filed herein, that the said defendant by an order issued under the seal of this Court on the ——— day of ———, 19—, had been duly cited to accept or refuse letters of administration of the estate of A.B., late of the ——— of ———, in the County of ———, deceased, and that the said defendant had entered an appearance to the said citation and that no other or further proceedings have been taken in this cause on behalf of the plaintiff since the entry of the said appearance, and it appearing that the said defendant is willing to take upon him the said letters of administration, it is ordered:

That letters of administration be issued under the seal of the said Court to the said defendant, if entitled thereto, notwithstanding the caveat entered in the estate of the said deceased, by or on behalf of the plaintiff, on his taking out the said citation.

Dated the ——— day of ———, 19—.

Surrogate Judge.

1593. STATEMENT OF CLAIM—ADMINISTRATION.

In the Surrogate Court of the County of ———.

In the estate of A.B., deceased.

Between

R.S., plaintiff, and
C.D., defendant.

STATEMENT OF CLAIM.

1. The plaintiff is cousin german and one of the next of kin of A.B., late of the ——— of ———, in the County of ——— (*addition*), who died on or about the ——— day of ———, A.D. 19—, a widower, without child, parent, brother or sister, uncle or aunt, nephew or niece.

2. The plaintiff claims a grant to him of letters of administration of the property of the said deceased.

Delivered this ——— day of ———, A.D. 19—, by E.F., of ———, solicitor for plaintiff.

1594. STATEMENT OF CLAIM—PROBATE.

1. The plaintiff is the executor appointed under the will of A.B., late of the ——— of ———, in the County of ——— (*addition*), who died on or about the ——— day of ———, A.D. 19—.

2. The said will bears date the ——— day of ———, A.D. 19—, and a codicil thereto bears date the ——— day of ———, A.D. 19—.

3. The plaintiff claims that the Court shall decree probate of the said will and codicil in solemn form of law.

Delivered, etc.

1595. STATEMENT OF CLAIM—REVOCATION OF ADMINISTRATION.

1. The plaintiff claims that the grant of letters of administration of the property of the said deceased, obtained by M.N., the defendant, should be revoked, and probate of the said will granted to the plaintiff.

Delivered, etc.

1596. STATEMENT OF CLAIM—REVOCATION OF PROBATE.

1. The plaintiff claims to be executor, etc., and to have the probate of a pretended will of the said deceased, dated the ——— day of ———, 19—, granted by this Court, revoked.

Delivered, etc.

1597. STATEMENT OF DEFENCE—ADMINISTRATION.

The defendant is nephew and next of kin of the deceased, being the son of W.B., the brother of the deceased, who died in his lifetime.

The defendant claims that the Court pronounce that he is the nephew and next of kin of the deceased and entitled to a grant of letters of administration of the property of the deceased.

1598. STATEMENT OF DEFENCE.

Probate.

1. The said alleged will and codicil of the deceased were not nor was either of them duly executed in accordance with the provisions of The Wills Act of Ontario.

2. The deceased at the times at which the said alleged will and codicil respectively purport to have been executed was not of sound mind, memory and understanding.

3. The execution of the said alleged will and codicil was obtained by the undue influence of the plaintiff and others acting with him whose names are at present unknown to the defendant (*or as the case may be*).

4. The execution of the said alleged will and codicil was obtained by the fraud of the plaintiff, such fraud, so far as is within the defendant's present knowledge being (*here state the nature of the fraud*).

5. The deceased at the time of the execution of the said alleged will and codicil respectively did not know and approve of the contents thereof (*or* of the contents of the residuary clause of the said will *or as the case may be*).

6. The deceased made his true last will and testament dated the ——— day of ——— 19—, and thereby appointed the defendant sole executor thereof.

And the defendant claims:

1. That the Court shall pronounce against the said alleged will and codicil propounded by the plaintiff.

2. That the Court shall decree probate in solemn form of law of the will of the deceased dated the ——— day of ——— A.D. 19— referred to in the 6th paragraph hereof.

Delivered, etc.

1599. ORDER REMOVING CAUSE FROM SURROGATE COURT.

Into High Court under Sec. 33 of The Surrogate Courts Act.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. ——— day the ——— day of ——— 19—.

IN THE MATTER of a certain Cause or Proceeding Testamentary in the Surrogate Court of the County of ——— relating to the Estate of A.B., Deceased.

Between C.D., Plaintiff,
and
E.F., Defendant.

Upon the application of the defendant, upon hearing read the affidavit of ——— in support of the motion, and the affidavits of ——— filed in answer thereto, and the affidavits of ——— in reply, upon hearing what was alleged by counsel for all parties, and it appearing that a disputed question may arise as to whether the will propounded for proof in the Surrogate Court of the County of ——— by the plaintiff is, in fact, the will of the said A.B., deceased, and it appearing that the property of the said deceased exceeds $2,000 in value, and that the said cause or proceeding is of such a nature and of such importance as to render it proper that the same should be withdrawn from the jurisdiction of the said Surrogate Court to be disposed of by this Court:

1. It is ordered that the said cause or proceeding testamentary be withdrawn from the jurisdiction of the said Surrogate Court and removed into the High Court of Justice, and that the same be heard, tried and disposed of by this Court, and that the pleadings and proceedings therein do stand in the same plight and condition in which the same are now in said Surrogate Court, and that the documents, affidavits and papers in the said cause or proceeding, deposited or filed in the said Surrogate Court, be forthwith transmitted to the Deputy Registrar of this Court at the City of ——— (*or as the case may be*).

2. And it is further ordered that the costs of this application be costs in the cause.

CHAPTER LXI.

PROCEEDINGS FOR DIVORCE.

Under the Standing Rules and Orders of the Senate of Canada relating to Divorce, adopted during the Session of 1906.

1600. NOTICE OF APPLICATION FOR DIVORCE.

(*Rule 136.*)

Notice is hereby given, that (*name of applicant in full*) of the ——— of ———, in the county (*or* district) of ———, in the Province of ———, (*or* in the Northwest Territories *or as the case may be*), (*here state the addition or occupation, if any, of applicant, and the residence of the applicant if it is not in the same place as the domicile of the applicant*) will apply to the Parliament of Canada, at the next session thereof, for a Bill of Divorce from his wife (*or* her husband) (*here state names in full, residence and addition or occupation, if any, of the person from whom the divorce is sought*), on the ground of adultery, desertion, and cruelty (*or as the case may be*).

Dated at ———,
Province of ———,
——— day of ———, 19 —.

(*Signature of applicant or of solicitor for applicant*)

1601. AFFIDAVIT OF PUBLICATION.

Province of ———,
County of ———,
To Wit:

In the matter of the Petition of ——— to the Parliament of the Dominion of Canada for a Bill of Divorce from her husband, ———.

I, ———, of the City of Toronto, in the County of York, Student-at-law, make oath and say:

1. That the clipping from "———," a newspaper published at the Town of ———, in the Province of ———, attached to this, my affidavit, and now shown to me marked "A," is a true and correct copy of the notice of the application of the said ——— to the Parliament of the Dominion of Canada for a Bill of Divorce from her husband, ———.

2. That I have carefully searched and found true and correct copies of the said notice in each and every of the weekly issues of the said "———" from ———, 19—, to ——— 19—.

———.

1602. GENERAL FORM OF PETITION.

(*Rule 139.*)

To the Honourable the Senate of Canada in Parliament assembled:

The petition of A.B., of the ——— of ———, in the County of ———, in the Province of ———, and at present residing at ———, the lawful husband (*or* wife) of C.D., of &c. (*state names in full, domicile, actual residence, and occupation*).

1. That on or about the ——— day of ———, A.D. 19—, your petitioner (*if the wife is the petitioner state with particularity her maiden name and residence; if she had been married before the marriage which she seeks to dissolve, state with particularity the circumstances and her name*) was lawfully married to the said C.D.

2. That the said marriage was by license duly obtained (*or as the case may be*), and was celebrated by ———.

3. That at the time of the said marriage your petitioner and the said C.D. were domiciled in Canada, and have ever since continued to be and are now domiciled in Canada.

(*All facts as to the residence and domicile of the parties at the time of their marriage and as to any change of residence or domicile since their marriage should be stated with particularity.*)

4. That after ——— said marriage your petitioner lived and cohabited with ——— said ——— at ———, and that there are now living issue of the said marriage ——— children, viz.: Mary D., born the ——— day of ———, A.D. 19—, and Elizabeth D., born the ——— day of ———, A.D. 19— (*or as the case may be*).

5. That on or about the ——— day of ———, A.D. 19—, at the ———, in the ———, the said C.D. committed adultery with one G.H. ———, of ———, and since then on divers occasions has committed adultery with said G.H.

6. That your petitioner ever since ——— discovered that the said ——— had committed the said adultery has lived separate and apart from ———, and the said C.D. has not since cohabited with your petitioner.

7. That your petitioner has not in any way connived at, or condoned the adultery committed by the said C.D.; and that no collusion exists between your petitioner and the said C.D. to obtain a dissolution of their said marriage.

Your petitioner therefore humbly prays:

That your Honourable House will be pleased to pass an Act dissolving the said marriage between your petitioners and the said C.D. and enabling your petitioner to marry again, and granting your petitioner such further and other relief in the premises as to your Honourable House may seem meet.

And as in duty bound, your petitioner will ever pray.

(*Signature of petitioner.*)

1603. DECLARATION VERIFYING PETITION.

(*Rule 139.*)

Province of ———,
County (*or* district).
of ———.

I, A. B., of the ———, of ———, in the County of ———, in the Province of ——— (*occupation, if any*). (*In the case of the wife being the applicant, say* "wife of C.D." *and give names, residence and occupation or addition of the husband*), the petitioner in the foregoing petition named, do solemnly declare:

1. That, to the best of my knowledge and belief, the allegations contained in the paragraphs of the foregoing petition numbered respectively ———, are and each of them is true.

2. *If any matter is alleged, of which the petitioner has not personal knowledge, add* "That, with respect to the matters alleged in the paragraphs of the foregoing petition, numbered respectively ———, I am credibly informed and believe them, and each of them to be true."

1604. INFORMATION TO BE ENDORSED ON

Or appended to the copy of the Petition served upon the Respondent.

To (*Respondent's name*).

In accordance with Rule 139 of the "Standing Orders and Rules of the Senate" you are hereby informed that:

1. (*Petitioner's name*) the Petitioner, is now residing at No. — Street, in the City of ———, in the Province of ———, U.S.A. (*or as the case may be*).

2. Letters and notices for (*Petitioner's name*) may be delivered by sending them to the following address:

(*Post Office Address in Canada to be given.*)

3. The name and address of the solicitor acting for (*petitioner's name*) are as follows:

(*Give full particulars.*)

4. All notices and papers to be served upon (*Petitioner's name*) in this matter may be so served by serving them upon (*give full particulars of the name and address of some agent in the City of Ottawa.*)

5. If you desire to oppose the granting of the Divorce prayed for by the petition of which the within written (*or* hereto annexed) document is a true copy, you must within two months from the date when this copy is served upon you send a notice to that effect to the Clerk of the Senate of Canada, Parliament Buildings, Ottawa, Canada, and in that notice you must give the following particulars:

(a) Your actual residence at the time of sending the notice.

(b) A post office address in Canada at which letters and notices for you may be delivered.

(c) The name and address of your solicitor, if any is acting for you.

(d) If you have a solicitor, but his address is not at Ottawa, Canada, you must give the name and address of an agent at Ottawa, Canada, upon whom all notices and papers may be served.

6. If you do not send such notice to the Clerk of the Senate of Canada, and with the above particulars, the Petition now served upon you may be considered by the Senate of Canada, and a Bill of Divorce founded thereon may be passed without any further notice to you.

(*When the petition is one by a husband for divorce from his wife, add the following*):

7. If you show, to the satisfaction of the Senate Committee on Divorce that you have, and that you are prepared to establish upon oath, a good defence to the charges made by the petition of which the within written (*or* hereto annexed) document is a true copy, and that you have not sufficient money to defend yourself, that Committee may make an order that your husband shall provide you with the necessary means to sustain your defence, including the cost of retaining counsel, and the travelling and living expenses of yourself and of witnesses summoned to Ottawa on your behalf.

Dated, &c.

(*Signature of Petitioner or of his or her Solicitor.*)

1605. DECLARATION OF SERVICE

Of Notice, Petition and Information to Respondent, when made personally.

Province of ———,
County (*or* district)
of ———.
To Wit:

I, A. B., of the ——— of ———, in the County (*or* district) of ———, in the Province of ———, (*occupation*), do solemnly declare:

1. That on the ——— day of ———, A.D. 19—, I served C.D. (*name of person served*) personally with a true copy of the notice hereto attached and marked "A" by giving the said copy to and leaving it with the said C.D. at (*state place of service, with particularity as to street, number of house or other detail*).

2. That at the said time and place and in the said manner I also served the said C.D. with a true copy of the petition hereto attached and marked "B," appended to which copy there was then a true copy of the information to the respondent, which is hereto also attached and marked "C."

3. That I know the said C.D., and that I believe him (*or* her) to be the person described in the said notice as the husband (*or* wife) of E.F. therein named.

(*Add any statements made by the person served to the person affecting the service, showing identity.*)

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Canada Evidence Act.

1606. FORM OF ENACTMENT DISSOLVING MARRIAGE

An Act for the relief of ———.

(Assented to ———, 19—.)

Whereas ———, of the City of Toronto, in the County of ———, in the Province of ———, ———, has by his petition humbly set forth that on or about the ——— day of ———, A.D. 19—, he was lawfully married to ———, at the said City of ———; that at the time of the said marriage they were domiciled in Canada, where he has since been and is now domiciled; that they cohabited until the ——— day of ———, A.D. 19—; that upon the said ——— day of ——— he found her in the act of committing adultery with one ——— (*or as the case may be*); that since the said ——— day of ——— he had not lived with nor cohabited with her; and whereas he has humbly prayed that the said marriage may be dissolved, and that he may be authorized to marry again, and that such further relief may be afforded him as is deemed meet; and whereas he has proved the said allegations of his petition, and it is expedient that the prayer thereof be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The said marriage between the said ——— and ———, his wife, is hereby dissolved, and shall henceforth be null and void to all intents and purposes whatever.

2. The said ——— may at any time hereafter marry any woman he might lawfully marry if the said marriage with the said ——— had not been solemnized.

PART V.

PROCEEDINGS IN CRIMINAL CASES.

CHAPTER LXII.

QUASHING CONVICTIONS.

Judicature Act, Sec. 101a.

8 Edw. VII. (1908), Ch. 34.

Note.—For forms of proceedings to quash certiorari and Rule nisi, see Chap. LXIII. on Certiorari.

1607. NOTICE OF MOTION TO QUASH.

To ———, Esquire, and ———, Esquire, two Justices of the Peace in and for the County of ———, residing at the Village of ———,

———, Esquire, complainant, of the Village of ———, in the County of ———,

And ———, Esquire, Clerk of the Peace in and for the County of ———.

Take notice that a motion will be made before the presiding Judge in Chambers at Osgoode Hall, in the City of Toronto on the ——— day of ——— 19—, at the hour of eleven o'clock in the forenoon or so soon thereafter as the motion can be heard on behalf of ———, of the Township of ———, in the County of ———, Farmer, for an order quashing the conviction of the said ———, made by you as such Justices on the ——— day of ———, A. D., 19—, for that he the said ——— did on the ——— day of ———, A.D., 19—, at the Village of ———, in the County of ——— unlawfully (*or as the case may be*) sell liquor without the license therefor by law required, on the grounds following amongst others:

1. That the convicting Justices improperly heard the evidence of ———.

2. That there was no evidence to prove the said offence.

3. That the convicting Justices possessed no authority to convict.

4. That neither the information nor the conviction alleged a punishable offence and any term in default thereof was unauthorized.

5. That the informant was not competent to lay the charge.

6. That it cannot be understood from the proceedings whether an official or private individual is the informant so as to allow of a proper application of the penalty being made.

Dated this ——— day of ———, A.D., 19—.

Solicitors for the Applicant.

1608. ENDORSEMENT ON NOTICE.

Subsection 4 of Section 101(a) of the Judicature Act. As amended by 8 Edw. VII. (1908), Ch. 34.

Upon receiving the Notice of Motion so endorsed, the Magistrate, Justice or Justices, Coroner or Clerk of the Peace shall forthwith return to the Central office at Osgoode Hall, Toronto, the conviction, order, warrant (if any) and all things touching the same and the Notice served upon him and the certificate endorsed thereon in the following form,

"Pursuant to the accompanying notice I herewith return to this Honorable Court the following papers and documents, that is to say:

1. The conviction (*or as the case may be*).
2. The information and the warrant issued thereon.
3. The evidence taken at the hearing.
4. Any other papers or documents touching the matter.

And I hereby certify to this Honourable Court that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in the Notice of Motion."

1609. NOTICE TO BE ENDORSED.

You are hereby required forthwith after service hereof to return to the Central office, Osgoode Hall, Toronto, the conviction (*or as the case may be*) herein referred to together with the information and evidence (if any) and all things touching the matter as fully and entirely as they may remain in your custody or power together with this notice.

Solicitors for applicant.

To A. B. Magistrate at (*or as the case may be*).

1610. AFFIDAVIT OF SERVICE.

IN THE HIGH COURT OF JUSTICE.

In the matter of

The King
against
A.B.

I, ———, of the City of ———, in the County of ———, make oath and say:

That I did on ——— the ——— day of ———, one thousand nine hundred and ———, personally serve ———, who is person-

ally known to me as the informant in this matter, and Clerk of the Peace for ——— and ———, each with a true copy of the Notice of Motion with endorsements hereunto annexed, by delivering such copy to, and leaving the same with the said ——— and ———.

1611. RETURN PURSUANT TO NOTICE.

Pursuant to the accompanying notice I herewith return to this Honourable Court the following papers and documents, that is to say:

1. The conviction (*or as the case may be*);
2. The information and the warrant issued thereon;
3. The evidence taken at the hearing;
4. (*Any other papers or documents touching the matter*).

And I hereby certify to this Honourable Court that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in the said notice of motion.

1612. AFFIDAVIT OF DEFENDANT.

Showing Grounds.

In the High Court of Justice.
The King v. A.B.

I, A.B., of, etc.

1. I am the above named defendant A.B., and the person on behalf of whom the notice now shewn to me marked exhibit A., of this application was given.

2. (*State the facts shewing why the conviction or and warrant are bad and forming the grounds for the application to quash.*

3. That the paper writing not shewn to me marked exhibit A to this my affidavit is a true copy of the warrant of commitment (*or* to apprehend) under which I am now confined in close custody of the keeper in the County gaol of the County of ——— under the said warrant (*or as the case may be*) and I am not in such custody as a prisoner in said gaol under any warrant, or other authority, or for any other cause or matter.

1613. RECOGNIZANCE ON APPLICATION.

To Quash Conviction.

In the High Court of Justice.
The King
against
C.D.

Province of Ontario.
County of ———.
To Wit:

Be it remembered that on the ——— day of ———, 19—, personally came before me, X.Y., one of His Majesty's Justices of the Peace in and for the ———

of ———, C.D. (*name of defendant*) of the ——— of ——— in the County of ———, (*addition*), and E.F. (*name of bondsman*) of the ——— of ——— in the County of ———, (*addition*), and acknowledged themselves to owe to our Sovereign Lord the King the sum of One Hundred Dollars of lawful money of Canada, to be levied upon their goods and chattels, lands and tenements, to His Majesty's use, upon condition that if the aforesaid C.D. (*name of defendant*) shall prosecute with effect, without any wilful or affected delay, at his own proper costs and charges, an application now pending in the High Court of Justice for Ontario to quash a certain conviction dated the, etc., and made by, etc., whereby the said C.D. was convicted for, that he, etc., (*insert charge*), and shall pay to the person or persons in whose favour the conviction may be affirmed all his or their full costs and charges, to be taxed according to the course of the said Court; then this recognizance to be void, otherwise to be and remain in full force and virtue.

Taken and acknowledged
the day and year above
mentioned at ———
aforesaid, before me,

Witness: J.P.

———.

1614. AFFIDAVIT OF JUSTIFICATION OF SURETY.

Named in Foregoing Recognizance.

IN THE ———.

The King
against
C.D.

I, E.F. of the ——— of ——— in the County of ———, (*addition,*) make oath and say:

1. That I am the surety proposed and named for the defendant in the recognizance in this matter hereunto annexed.

2. That I am a freeholder (*or* householder) residing at ——— (*street and number if in city*) in the County of ——— aforesaid.

3. That I am worth property to the amount of One Hundred Dollars over and above what will pay all the amount of my debts and every other sum for which I am now liable or for which I am bail or surety.

4. That I am not bail or surety for any plaintiff or defendant except in this matter (*or* except in a certain action in the High Court of Justice in which R.S. is plaintiff and W.T. is defendant, in which I am surety to the extent of ——— Dollars).

5. That my said property to the amount of the said sum of One Hundred Dollars consists of ——— in the ——— of ——— in the ——— of the value of about ——— Dollars.

(*Attach also affidavit of execution*).

1615. ORDER QUASHING CONVICTION.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice———. In Chambers. ——— day the ——— day of ——— A.D. 19—.

The King against A.B.

Upon reading the notice of motion in this matter and the affidavit of service thereof, and the return of ——— made pursuant to the said notice, and upon hearing counsel for:

1. It is ordered that a certain conviction of ——— above named by ———, Esquire, Police Magistrate (*or* one of His Majesty's Justices of the Peace) in and for the ——— of ———, on the information of one ———, for unlawfully (*set out charge*), be and the same is hereby quashed, with costs.

2. And it is further ordered that no such action as is provided for by section 11 of chapter 88, Revised Statutes of Ontario, 1897, and by section 89 of chapter 178, Revised Statutes of Canada, 1886, shall be brought against the said ——— and ——— (*name of magistrate and of informant*).

1616. NOTICE OF APPEAL TO DIVISIONAL COURT.

IN THE HIGH COURT OF JUSTICE.

In the matter of

The King
against
A.B.

Take notice that by special leave of the Hon. Mr. Justice ——— the Divisional Court will be moved on ——— the ——— day of ——— A.D. 19—, at the hour of eleven o'clock in the forenoon or so soon thereafter as Counsel can be heard on behalf of the above named A.B. by way of appeal from the judgment of the Honourable ——— delivered on the ——— day of ——— A.D. 19—, refusing to quash the conviction of ——— dated, &c., on the ground, &c., and on the further grounds set forth in the affidavits and papers filed.

And take notice that upon and in support of such motion will be read the affidavits and papers filed in chambers on the application so refused.

Dated the ——— day of ———, 19—.

Solicitor for A.B.

CHAPTER LXIII.

CERTIORARI.

Note.—In Ontario, in all cases where it is desired to move to quash a conviction, order, warrant or inquisition, the proceeding shall be by notice of motion in the first instance, instead of by certiorari, or by rule or order nisi. 8 Edw. VII. (1908), ch. 34. See Chapter LXII. on Quashing Convictions.

A writ of certiorari may still be issued in certain cases. See The Ontario Habeas Corpus Act, 9 Edw. VII. (1909), c. 51, s. 6.

1617. NOTICE OF MOTION FOR WRIT OF CERTIORARI.

To Remove Summary Conviction.

IN THE HIGH COURT OF JUSTICE.

The King against A.B.

Take notice that a motion will be made on behalf of (*insert name and residence of the party convicted*) before the presiding Judge in Chambers at ———, in the City of ———, on ———, the ——— day of ———, 19— (*note that 6 clear days' notice is necessary*), at the hour of 10 o'clock in the forenoon, or so soon thereafter as the motion can be heard, for an order that a Writ of Certiorari do issue to remove into this Court the information and complaint of (*insert name and address of prosecutor*) against (*name of defendant*) tried before ———, Esq., Police Magistrate (*or* a Justice of the Peace) in and for the ——— of ———, on the ——— day of ———, 19—, together with the information, depositions, evidence and record of conviction, and all other papers and matters in connection therewith and process thereunder, to bring up the said conviction to be quashed upon the grounds following: (*set out in paragraphs the several grounds relied upon*).

And upon other grounds appearing upon the face of said proceedings and from the affidavits and papers filed.

And for such further or other order as to the said Judge may seem meet.

And take notice that upon and in support of such application will be read certified copies of the said information, depositions and conviction, and the affidavit of ——— verifying the same and the affidavit of ——— (*name of deponent, proving grounds not apparent from the copies, such as interest of Magistrate, objections not noted by him, &c.*), this day filed.

Dated the ——— day of ———, 19—.

X.Y.,
Solicitor for defendant.

To A.B., Esq., the above-named magistrate; C.D., Clerk of the Peace, and to E.F., informant.

1618. NOTICE OF MOTION FOR WRIT OF CERTIORARI.

Another Form.

To ———, Esquire, Police Magistrate (*or* one of His Majesty's Justices of the Peace) in and for the ——— of ———:

Whereas you did on the ——— day of ———, 19—, at the ——— of ———, in the County of ———, convict ——— for that he did on the ——— day of ———, 19—, at the ——— of ———, in the County of ———, unlawfully (*insert charge*);

And whereas the penalty imposed is illegal and the proceedings had were irregular, the conviction therefore as well as on other grounds being irregular and illegal;

Wherefore the aforesaid ——— being resolved to seek a remedy for the injury he has received and sustained by reason of the said conviction;

We (*or* I) do hereby on behalf of the aforesaid ——— give you notice that a motion will be made before the Judge of the ——— Court of ———, presiding in Chambers at ———, in six days from the time of your being served with this notice, or so soon thereafter as the motion can be heard, on behalf of the above-named ———, for a Writ of Certiorari to issue out of the ——— Court ———, to be directed to you the said ———, for the removal of the record and of such conviction into the said Court.

Dated at ———, this ——— day of ———, 19—.

XY.,
No. — ——— Street, in the City of ———,
Solicitor for the said———.

To L.M., Esq., the above-named Magistrate.

1619. NOTICE TO INFORMANT OF MOTION FOR CERTIORARI.

To ——— of the ———, of ———, in the County of ———:

Take notice that hereunto annexed is a true copy of a notice of motion for an order for a Writ of Certiorari to issue out of the ——— Court of ———, directed to ———, Esquire, Police Magistrate (*or* one of His Majesty's Justices of the Peace) in and for the ——— of ———, for the removal into the said ——— Court ——— of the record and conviction of one ———, upon the information of you, the said ———, for that he the said ——— did on the ——— day of ———, 19—, at the ——— of ———, in the County of ———, unlawfully (*set out charge*);

And further take notice that unless the prosecution of the said ——— be forthwith abandoned so as to save the necessity for a further application to the Court, the costs of all proceedings will be asked against you;

And further take notice that you are required forthwith to deliver to the said ——— or to his solicitors a written consent to the quashing of the said conviction.

Dated this ——— day of ———, 19—.

X & Y.,
Solicitors for said———.

To ———, Esq., the above-named informant.

1620. AFFIDAVIT OF SERVICE.

In the High Court of Justice.

The King v. A.B.

I ——— of the ——— of ———, in the county of ——— (*fill in occupation*), make oath and say:

1. That I did on the ——— day of ——— A.D. 19—, personally served C.D., the police magistrate (*or* justice of the peace) named in the notice now shewn to me marked Exhibit A, with a true copy of the said notice, by delivering to and leaving with him, the said C.D., personally, at the ——— of ——— in the County of ———, on the said day a true copy of the said notice.

2. That I was present at the trial and conviction of the said A.B. for the offence mentioned in the said notice and I personally know the person so served by me as aforesaid to be the said C.D., police magistrate (*or* justice) by whom the said conviction was made (*or as the case may be, shewing the means of identification of the magistrate or justice*).

1621. AFFIDAVIT FOR CERTIORARI.

Verifying Proceedings.

In the ——— Court ———.

The King v. A.B.

I ———, of the ——— of ——— in the County of (*occupation*) make oath and say:

1. That the hereto annexed several paper writings, marked respectively exhibits A, B and C, being the information, evidence taken before the justice, the justice's minute of adjudication, the formal record of conviction and other papers connected therewith, to this my affidavit,* were copied by me from the originals of which the same purport to be copies now in the hands of ———, Esquire, police magistrate (*or* justice of the peace, etc., *or* now on file in the office of the clerk of the peace for the County of ———) and the said annexed paper writings are true copies of the said originals respectively.

2. That I have examined the warrant of commitment now in the hands of the keeper of the common gaol for the County of ———

(*or as the case may be*), upon which the said A.B. is now held in custody in the said gaol (*or as the case may be*).

3. That the paper writing hereto annexed, marked exhibit D. to this my affidavit, is a true copy of the said warrant of commitment now in the hands of the said keeper of the said gaol (*or as the case may be*), upon which the said A.B. therein named is held for trial (*or* is committed under the said conviction).

4. I have carefully compared the said copy of the said warrant of commitment, marked exhibit D., with the said original thereof in the hands of the said keeper, and the said copy is a true copy of the said original warrant of commitment.

1622. AFFIDAVIT BY DEFENDANT.

I, A.B. of, &c.

1. I am the above named defendant A.B. and the person on behalf of whom the notice now shewn to me marked exhibit A. of this application for a writ of certiorari in this case was given.

2. (*State the facts shewing why the conviction or commitment and warrant are bad and forming the grounds for the application to squash*).

1623. FORM OF RECOGNIZANCE.

In the ——— Court ———.

The King v. A.B.

Be it remembered that on the ——— day of ——— A.D. 19—, personally came before me, E.F., one of His Majesty's justices of the peace in and for the County of ——— (*or* police magistrate in and for the ——— of ———, in the County of ———), A.B. (*defendant*) of the ——— of ———, in the County of ——— (*occupation*), G.H. of the ——— of ———, in the County of ——— (*occupation*), K.L. of the ——— of ———, in the County of ——— (*occupation*), and acknowledged themselves to owe to our Sovereign the King the sum of $100 of lawful money of Canada to be levied upon their goods, chattels, lands and tenements to His Majesty's use, upon condition that if the aforesaid A.B. (*defendant*) shall prosecute with effect without any wilful or affected delay at his own proper costs and charges, a writ of certiorari issued out of the Court of ——— to remove into the said Court all and singular the records of conviction and of whatsoever trespasses and contempts against the form of the statute known as the Criminal Code of Canada, &c., (*or insert whatever the Statute may be, under which the defendant was convicted*), and particularly the offence whereof the said A.B. was convicted before C.D., Esquire, police magistrate (*or* one of His Majesty's justices of the peace) in and for the ——— of ———, as afore-

said (*set out the charge*) and shall pay as and when the same may be ordered by the Court to the person or persons in whose favor the said conviction may be affirmed, all his or their full costs and charges to be taxed according to the course of the said Court in case the said conviction is affirmed.

Then this recognizance to be void; otherwise to remain in full force and virtue.

Taken and acknowledged the day and year first above mentioned at the ——— of ——— aforesaid before me.
R.S. [SEAL.]
A justice of the peace in and for the County of ———
Witness to the execution by the parties and justices above named
M.N.

A.B. [SEAL.]
E.F. [SEAL.]
G.H. [SEAL.]

1624. AFFIDAVIT OF JUSTIFICATION BY SURETY.

In the ——— Court ———.

The King v. A.B.

I, E.F. of the ——— of ——— in the County of ——— (*occupation*) make oath and say:

1. That I am the surety (*or* one of the sureties, *as the case may be*) proposed and named for the above named A.B. in the recognizance in this matter hereunto annexed.

2. That I am a freeholder (*or* householder) residing at No. ——— St. ———, in ——— of ——— in the said County of ———.

3. That I own and am worth property to the amount of one hundred dollars over and above what will pay all my debts and liabilities and every other sum for which I am now liable, or for which I am bail, or surety in any other matter.

4. That I am not bail or surety for any person except in this matter and except (*stating in what matter and for how much, if any*).

5. That my said property to the amount of the said sum of one hundred dollars consists of household furniture (*or* farm stock, implements, money deposited in bank *or* bank stock *or* land, *describing it, or whatever it consists of*) to the value of about ——— dollars.

1625. AFFIDAVIT OF EXECUTION.

In the ——— Court ———.

The King v. A.B.

I, M.N. of the ——— of ——— in the County of ———, (*occupation*) make oath and say:

1. That I was personally present and did see the ——— hereunto annexed recognizance duly signed, sealed and executed by A.B. and E.F. and G.H. the parties thereto, and by R.S., the justice of the peace for the said County of ———, before whom the same was taken and acknowledged.

2. That the said recognizance was so executed, taken and acknowledged at the ——— of ——— in the said County of ———.

3. That I know the said parties.

4. That I am a subscribing witness to the said recognizance.

1626. ORDER FOR WRIT OF CERTIORARI.

To Remove Conviction.

In the ——— Court ———.

The Honourable Mr. Justice ———. In Chambers. | ——— day the ——— of ——— 19—.

The King against A.B.

Upon the application of the said A.B., and upon reading the affidavit of the said A.B. and the exhibits therein referred to, and the notice of this application and the affidavit of service thereof, and the affidavits of ——— filed and the exhibits therein referred to, and upon hearing counsel for the Crown and the said A.B.:

1. It is ordered that a writ of certiorari do issue out of the Court, directed to ———, Esquire, Police Magistrate (*or* one of &c.) in and for the ——— of ———, and to the Clerk of the Peace for the County of ———, to remove into the said Court all and singular the information, depositions, evidence, conviction and proceedings had and taken against the said A.B. before the said ——— as such Police Magistrate (*or* Justice of the Peace) in and for the ——— of ———, upon the information and complaint of ———, upon a charge that he, the said A.B., did on the ——— day of ——— 19— at the ——— of ——— in the County of ——— unlawfully (*insert charge*).

1627. ORDER FOR CERTIORARI

In Aid of Habeas Corpus Already Issued.

(*Formal Parts.*)

Upon the application of A.B. of the ——— of ——— in the County of ———, a prisoner now confined in close custody in the common gaol of the County of ——— at the Town of ———, and upon reading the affidavits of the said A.B. and of ——— with the papers to the said affidavits attached, all this day filed, and a

writ of habeas corpus having been issued to bring the body of the said A.B. before the Judge of this Court presiding in Chambers at ———.

1. It is ordered that a writ of certiorari in aid of the said writ habeas corpus do issue, &c. (*as in Form 1626.*)*

1628. WRIT OF CERTIORARI—GENERAL.

In the ——— Court ———.

ONTARIO. }
To Wit: } (*Style of Cause or Matter.*)

GEORGE THE FIFTH, &c.

To ———, Greeting:

WE BEING WILLING, for certain causes, to be certified of ———:

COMMAND YOU, that you send to us, in our ——— Court of ——— at ———, on the ——— day of ——— in the year one thousand nine hundred and ——— the ——— aforesaid with all things touching the same, as fully and entirely as they remain in ——— custody or keeping, together with this Writ, that we may further cause to be done thereupon what of right and according to law we shall see fit to be done.

Witness the Honourable ——— President of our said Court at ———, this ——— day of ——— in the year of our Lord one thousand nine hundred and ———.

To be inserted in the margin:

Issued from the office of the ——— of the Court of ——— under and pursuant to the order of the Honourable ——— bearing date the ——— day of ——— 19—.

Indorsement: This writ was issued by &c.

1629. WRIT OF CERTIORARI TO REMOVE CONVICTION.

In the ——— Court ———.

The King
v.
A.B.

GEORGE THE FIFTH, &c.

To ———, Greeting:

WE BEING WILLING, for certain causes, to be certified of certain conviction and proceedings had before you ——— Magistrate in and for the ——— of ——— (*or as the case may be*) as such Magistrate in and for the ——— of ——— against the said A.B. on the information and complaint of C.D.:

COMMAND YOU, that you send to us, in our Court ——— at ———, forthwith on the receipt hereof, all and singular the information, depositions, evidence, conviction, orders and proceedings aforesaid, with all things touching the same, as fully and entirely as they remain in ——— custody or keeping, by whatso-

ever names the parties may be called therein, together with this Writ, that we may further cause to be done thereupon what of right and according to law we shall see fit to be done.

Witness the Honourable ———, at ———, this ——— day of ———, in the year of our Lord one thousand nine hundred and ———.

To be inserted in the margin:

Issued from the office of the ——— of the ——— Court of ———, under and pursuant to the order of the Honourable ———, bearing date the ——— day of ———, 19—.

Indorsement: This writ was issued by, &c.

1630. RETURN TO WRIT OF CERTIORARI.

The answer of C.D., the ———, within mentioned.

The execution of this writ appears in the schedule hereunto annexed.

C.D.,
Justice of the Peace (*or as the case may be.*)

Schedule (*to be attached to the writ*).

I, C.D., of the———of———, in the County of———, one of the justices of the peace of our Sovereign Lord the King, assigned to keep the peace within the said County of ———, and to hear and determine divers offences committed in the said county, by virtue of this writ of certiorari to me delivered, do hereby certify unto His Majesty in His ——— Court of ——— for the Province of ——— the record of conviction, with the information, summons (*or* warrant to apprehend), and the depositions and evidence and minute of adjudication and all proceedings taken before me, of which mention is made in the said writ, together with all matters touching the same.

In witness whereof I, the said C.D., have to these presents set my seal.

Given at the ——— of ——— the ——— day of ———, A.D. 19—.

1631. SCHEDULE TO RETURN.

I, C.D., Justice of the Peace (*or* police magistrate) to our Sovereign the King, do certify that before the coming of the writ of our said Lord the King, to me directed and to this schedule annexed, to wit, on the ——— day of ———, A.D. 19—, an information was laid on oath by ——— against A.B., charging him with (*state the charge*), and the said charge was laid before me as such justice (*or* police magistrate), and the matter of the complaint was enquired into by me, and the depositions of witnesses were taken.

The Crown was represented by ———, Esquire (County Crown Attorney (*or as the case may be*), and the prisoner by his counsel, ———, Esquire (*or as the case may be*).

At the close of the examination, and upon hearing counsel for the Crown and counsel for the prisoner (*or as the case may be*), I did duly convict the said A.B. and prepare and sign a record of conviction of the said A.B. (*or* I did by warrant in due form of law) commit the said A.B. to the common gaol of the County of ———, there to be kept until he should be thence delivered by due course of law (*or as the case may be, describing the proceedings taken*). The said warrant was sent to the gaoler with the said prisoner (*if such be the fact*), and the information and depositions were afterwards and before the receipt of the said writ by me sent and delivered to the clerk of the peace of the said County of ———, according to law, and at the time of the receipt of the said writ by me, I had not, nor have I now, any of the said information, depositions, evidence, commitment, or proceedings aforesaid remaining in my custody, control or keeping whatsoever.

And this is my return to the said writ this ——— day of ———, A.D. 19—.

Justice of the Peace (*or* police magistrate).

1632. RULE NISI TO QUASH CONVICTION.

IN THE ———.

The Honourable the Chief Justice of the ———.
The Honourable Mr. Justice ———.
The Honourable Mr. Justice ———.

——— the ——— day of ———, A.D. 19—.

The King
against
A.B.

Upon the application of the above named A.B. and upon reading the return to the Writ of Certiorari granted herein, filed, and the said Writ, and the affidavits and papers filed in Chambers upon the application therefor, and the recognizance entered into by the defendant with a surety to duly prosecute the said Writ, also filed:

1. It is ordered that X.Y., Esquire, Police Magistrate (*or* one of His Majesty's Justices of the Peace) in and for the ——— of ———, and C.D., the informant do upon notice to them of this order, to be served upon them, their solicitors or agents, show cause on the first day of the next sittings of the Divisional Court why the conviction of the aforesaid A.B., on the information and complaint of the said C.D., for that he the said A.B. did on the ——— day of ———, 19—, at the ——— of ———, in the County of ———,

unlawfully (*set out charge*), should not be quashed, with costs, on the following grounds among others:

1. &c. (*Set out grounds*).

On motion of Mr. ———,
of counsel for the defendant.
By the Court.

1633. MOTION PAPER ON APPLICATION FOR RULE NISI.

IN THE ———.

Before the Court ———. } ——day, the ——— day of ———,
} A.D. 19—.

The King v. A.B.

Motion on behalf of the above named A.B. upon reading the writ of certiorari granted herein on the ——— day of ———, A.D. 19—, and the papers filed in Chambers on the application therefor, the return to the said writ and the papers thereto attached, and the recognizance also filed for an order calling upon C.D., Esquire, justice of the peace (*or* police magistrate) for the ——— of ———, and E.F. (*the informant*), upon notice to them of such order to be given to them respectively, to shew cause why the conviction of the said A.B. upon the information of the said E.F. for that he did (*set out the charge as in the conviction*), should not be quashed with costs upon the following among other grounds: (*State the grounds.*)

Of counsel for the said A.B.

1634. NOTICE OF OBJECTION TO CERTIORARI.

IN THE ———.

The King v. A.B.

Take notice that upon the motion to quash the conviction of you, the above named A.B., objection will be taken on behalf of C.D., the prosecutor (*or* of the convicting magistrate or justice), that the writ of certiorari herein and the return thereto are invalid on the ground that six clear days' previous notice was not given to the said convicting magistrate (*or* justice, *or* two of the convicting justices (*as the case may be*), of the application for the said certiorari, *or* that the recognizance filed is insufficient, for the following reasons: (*stating the objections or stating any other grounds on which it is contended that the certiorari is invalid.*)

Dated, &c.

E.F.,
Solicitor for the said C.D., prosecutor
(*or* G.H., the magistrate *or* justice above named).

1635. RULE ABSOLUTE QUASHING CONVICTION.

IN THE ———.

The Honourable the Chief Justice of the ———. / The Honourable Mr. Justice ———. / The Honourable Mr. Justice ———. } ———, the ——— day of ———, A.D. 19—.

The King against A.B.

Upon the application of A.B., upon reading the rule nisi issued on the ——— day ———, A.D. 19—, and the affidavit of service thereof, the writ of certiorari, dated the ——— day of ———, A.D. 19—, the return of the said writ and the papers thereto attached, and the recognizance filed and upon hearing counsel for the prosecutor E.F. and for the appellant A.B. and for C.D., Esquire, justice of the peace (*or* police magistrate), (*or* no one appearing for the said E.F. or C.D., although duly notified).

1. It is ordered that the conviction of the said A.B. by C.D., Esquire, justice of the peace (*or* police magistrate) for the ——— of ———, on information of the said E.F. for that (*set out the charge*) be and the same is hereby quashed (*and if costs are ordered*), with costs to be paid by the said ——— to the said A.B.

2. And it is further ordered that the said A.B. be and he is hereby discharged from custody under the warrant of commitment issued upon the said conviction.

3. And it is further ordered that no such action as is provided for by section 1131 of the Criminal Code of Canada, and by the ——— Statutes of ———, chapter —, section —, shall be brought against the said C.D. and E.F., or either of them, or any person whomsoever.

On motion of Mr. ———, of counsel for said A.B.

By the Court,

1636. NOTICE OF MOTION TO SUPERSEDE CERTIORARI.

IN THE ———.

The King v. A.B.

Take notice that a motion will be made on behalf of E.P., the convicting justice (*or* magistrate), (*or* on behalf of C.D., the prosecutor herein), before the presiding judge of this court in Chambers, at ———, in the City of ———, on the ——— day of ———, A.D. 19—, at ten o'clock in the forenoon, or so soon thereafter as the motion can be made for an order superseding or quashing the writ of certiorari issued herein, and superseding the order therefor, and for the return of the conviction and other proceedings and papers to the said convicting justice (*or* magistrate), (*or* to the clerk of the peace for the County of ———), on the ground that no

notice was given to the said magistrate six clear days before the application for the said writ, as required by the statute in that behalf; *or* that the notice was insufficient in this that ——— (*setting out its defect*); *or* that the recognizance is insufficient, *or* was not duly entered into and executed, in this that ——— (*setting out defects*); *or* that the sureties named in the said recognizance were not possessed of sufficient property to justify as such, and were not worth $100 over and above what they are otherwise sureties for, and over and above their other liabilities; *or* for want of prosecution and delay in prosecuting the certiorari on the part of the said A.B., within the time limited by the statute in that behalf, and for an order that the said defendant do pay to the said prosecutor (*or* convicting magistrate *or* justice) his costs of, and incidental to the application for certiorari and this application; or for such further or other order as may seem meet.

And take notice that upon such application will be read the affidavit of ——— the exhibits therein referred to and the orders, proceedings and papers herein.

Dated this ——— day of ———, A.D. 19—.

G.H.,
Solicitor for the said prosecutor
(*or* convicting magistrate *or* justice).

To the said C.D. and E.F., his solicitor.

1637. AFFIDAVIT IN SUPPORT OF MOTION TO SUPERSEDE CERTIORARI.

IN THE ———.

The King v. A.B.

I, ———, of the ——— of ———, in the County of ———, make oath and say:

1. That I am the prosecutor (*or* the magistrate *or* justice *as the case may be*) named in the writ of certiorari issued herein, a true copy of which is now shown to me marked Exhibit A.

2. (*If the objection is that the notice was served on the magistrate less than six clear days, state the facts clearly, and shew when it was served and negative service for six clear days. If no notice was served at all on the magistrate, state the fact. If the copy served is claimed to be insufficient in form the copy of notice should be verified and marked as an exhibit. If the objection is to the sufficiency of the recognizance, or of the affidavit of execution, or justification, or in form or substance or manner of execution, state any facts necessary to shew this, and state fully the means of knowledge of the deponents, and what the sureties' property, if any, is worth. If the application is made on the ground of delay in prosecuting the writ of certiorari and in moving to quash then set out the proceedings taken and the facts shewing that there have been laches and undue delay.*)

CHAPTER LXIV.

HABEAS CORPUS.

9 Edw. VII. (1909), Ch. 51.

1638. NOTICE OF MOTION FOR WRIT OF HABEAS CORPUS.

IN THE HIGH COURT OF JUSTICE.

In the matter of the King against A.B.

Take notice that a motion will be made on behalf of the above named A.B. before the presiding Judge in Chambers at Osgoode Hall, Toronto, on ——— the ——— day of ——— A.D. 19—, at ten o'clock in the forenoon, or soon thereafter as the motion can be heard, whereon you are to shew cause why a writ of habeas corpus should not issue to the keeper of the common gaol of the County of ——— (*or as the case may be*) directing him to have before a Judge of the High Court of Justice for Ontario the body of the said A.B., a prisoner detained in his custody, that the Court may cause to be done what of right and according to law the Court shall see fit to be done, (and for a writ of certiorari in aid thereof) for the following among other reasons. (*State the reasons and grounds of application*).

And take notice that in support of such application will be read the affidavits of ———, filed, and the exhibits therein referred to.

Dated this ——— day of ———.

To the Attorney-General for the Province of Ontario, and to E.F., the prosecutor, and to C.D., the convicting magistrate (*or* justice).

Solicitor for the said A.B.

1639. ORDER FOR WRIT OF HABEAS CORPUS.

IN THE HIGH COURT OF JUSTICE.

Before the Honourable Mr. Justice ——— In Chambers. } ——— day the ——— day of ——— A.D. 19—.

The King against A.B.

Upon the application of the above named A.B., upon reading the affidavit of the said A.B. filed, and a copy of the warrant of commitment marked "A" thereto and upon hearing counsel for the defendant.

1. It is ordered that a writ of habeas corpus do issue out of the High Court of Justice directed to the keeper of the common gaol for the County of ——— (*or* the warden of the Central Prison for

the Province of Ontario, in the City of Toronto, *or as the case may be, mentioning the head official of the place where the defendant is detained or the constable in whose custody he is*), directing him to have before a Judge of the High Court of Justice for Ontario, presiding in Chambers at Osgoode Hall, Toronto, forthwith on the receipt of the said writ the body of A.B. a prisoner detained in the custody of the said keeper of the said common gaol (*or* warden, *or as the case may be*), that there may be caused to be done thereupon what of right and according to law it shall be seen fit to be done.

1640. ORDER FOR WRIT OF CERTIORARI.

In Aid of Habeas Corpus.

IN THE HIGH COURT OF JUSTICE.

The King on the information of C.D. against A.B.

Upon the application of C.D., the prosecutor above named (*or* A.B. above named, a prisoner now confined in close custody in the common gaol of the County of ———) upon reading the affidavit of the said ———, and the exhibits therein referred to, this day filed, and a writ of habeas corpus having been issued to bring the body of the said A.B. before a Judge of this Court.

1. It is ordered that a writ of certiorari in aid of the said writ of habeas corpus, do issue out of this Court directed to C.D., Esquire, police magistrate (*or* one of His Majesty's justices) for the County of ———, and also to ———, Esquire, the clerk of the peace for the County of ——— (*as the case may be*) to remove and return into this Court all and singular the information, process, depositions, evidence, minute of adjudication, conviction and all other proceedings, and all things touching the same, had and taken against the said A.B. before the said magistrate (*or* justice of the peace), upon the information of ——— for that the said A.B., at the ——— of ———, in the County of ———, on the ——— of ——— A.D. 19—, did unlawfully (*here set out the charge*).

1641. ORDER OF CERTIORARI.

In Aid of Habeas Corpus.

Upon the application of ——— of the ——— of ——— in the County of ———, a prisoner now confined in close custody in the common gaol of the County of ——— at the town of ———, and upon reading the affidavits of the said ——— and of ——— with the papers to the said affidavits attached, all this day filed, and a writ of Habeas Corpus having been issued to bring the body of the said ——— before the Judge of this Court presiding in Chambers at ———.

1. It is ordered in aid of the said writ of Habeas Corpus that ——— do forthwith send to the ——— Registrar of ——— the

——— Court of ——— at ——— all and singular the ——— and all subsequent proceedings taken upon the said ——— and any writ or other proceedings taken in the said Court pursuant to the said last mentioned ——— with all things touching the same together with this order, that this Court may further cause to be done thereupon what it shall see fit to be done.

2. And it is further ordered that the costs of this be reserved for such future order as may be made herein.

1642. ORDER FOR WRIT OF HABEAS CORPUS.

And Order for Certiorari in Aid.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. } ——— day the ——— day of ——— 19—.

IN THE MATTER of a certain investigation lately pending before His Honour ———, Esquire, Junior Judge of the County Court of the County of ———, entitled as follows:

"IN THE MATTER of R.S.O. 1897, Chapter 259, An Act for the Protection and Reformation of Neglected Children.

AND IN THE MATTER of H.B., L.B. and E.B., infants alleged to be neglected and dependent within the meaning of the said Act:"

Wherein an order was made by the said Judge on the ——— day of ——— 19— for the delivery of the said infants to The Children's Aid Society of ———.

Upon the application of M.B., mother of the above named infants H.B., L.B. and E.B., upon reading the affidavits of M.B., W.T. and J.S. filed, and the exhibits therein referred to, and upon hearing counsel for the said applicant:

1. It is ordered that a Writ of Habeas Corpus do issue out of this Court directed to The Children's Aid Society of ——— and the President thereof, requiring the said Society and the President thereof to have before the Judge of the High Court of Justice presiding in Chambers at Osgoode Hall in the City of Toronto on ——— day the ——— day of ——— 19— at the hour of ten o'clock in the forenoon, or so soon thereafter as the said Judge may be sitting in Chambers, the bodies of the above named H.B., L.B. and E.B., now detained in the custody of the said Society, together with the cause of their detention, that the Court may cause to be done thereupon what of right and according to law the Court shall see fit to be done.

2. And it is further ordered that the above named ———, Esquire, Junior Judge of the County Court of the County of ———, do send to the Central Office of this Court at Osgoode Hall, Toronto, forthwith on the receipt hereof, all and singular the information, depositions, evidence, conviction, orders and proceedings

had before him in the above recited matters, wherein an order was made by the said Junior Judge on the ——— day of ——— 19—, with all things touching the same, as fully and entirely as they remain in the custody or keeping of the said Junior Judge, by whatsoever names the parties may be called therein, together with this order, that the Court may cause to be done thereupon what of right and according to law the Court shall see fit to be done.

3. And it is further ordered that the said applicant shall be at liberty to read upon the return of the motion such further material as counsel may advise.

1643. ORDER FOR WRIT OF HABEAS CORPUS.

And Writ of Certiorari in Aid.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. } ——— day the ——— day of ——— 19—.

The King against A.B.

Upon the application of the said A.B., upon reading the affidavits of ——— filed, upon reading the conviction and proceedings had before ———, Esquire, Police Magistrate in and for the City of ——— (*or as the case may be*), and upon hearing counsel for the said A.B.:

1. It is ordered that a Writ of Habeas Corpus do issue out of the High Court of Justice directed to the Warden of the Provincial Penitentiary at ——— (*or as the case may be,*) directing him to have before a Judge of the High Court of Justice for Ontario presiding in Chambers at Osgoode Hall, Toronto, forthwith after the receipt of the said writ, the body of A.B. a prisoner detained in the custody of the said warden, that there may be caused to be done thereupon what of right and according to law it shall be seen fit to be done.

2. And it is also ordered that a Writ of Certiorari in aid thereof do issue out of the said High Court of Justice directed to ———, Esquire, Police Magistrate in and for the City of ———, to remove into the said High Court of Justice all and singular the information, depositions, evidence, conviction and proceedings had and taken against the said A.B. before the said ———, Esquire, as such Police Magistrate in and for the said City of ———, upon the information and complaint of ———, upon a charge that he the said A.B. did on the ——— day of ——— 19— at the City of ——— in the County of ——— (*here set out the charge upon which A.B. was convicted*).

3. And it is further ordered that the applicant shall be at liberty to use upon the return of the motion such further and other material as he may be advised.

1644. WRIT OF HABEAS CORPUS.

GEORGE THE FIFTH, &c.

To ———, Esquire, Superintendent of the Ontario Reformatory for Boys at ——— (*or as the case may be,*) Greeting:

We command you that you have before the Judge of the High Court of Justice for Ontario presiding in Chambers at Osgoode Hall, Toronto, immediately after the receipt of this Writ, the body of A.B. detained in your custody, as is is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be called or known therein, together with this our Writ, that we may further cause to be done thereupon what of right and according to law we shall see fit to be done.

Witness The Honourable ——— President of our High Court of Justice for Ontario at Toronto the ——— day of ——— in the year of our Lord one thousand nine hundred and ———.

———

Clerk of Records and Writs
(*or as the case may be.*)

To be inserted in the margin:

Per Statutum tricesimo primo Caroli Secundi Regis.

Issued from the ——— office of the High Court of Justice for Ontario at ——— in the County of ——— pursuant to the order of the Honourable Mr. Justice ——— dated the ——— day of ——— 19—.

Indorsement.

This Writ was issued by ——— of the City of Toronto in the County of York, solicitor for the above named A.B.

Indorsement dispensing with production of body.

I hereby dispense with production of the body of the within named A.B. in pursuance of the within Writ.

Dated the ——— day of ——— 19—.

Solicitor for A.B.

———

1645. RETURN TO HABEAS CORPUS.

By virtue of the within Order, I, G.H., the keeper of the common gaol at ——— in and for the County of ——— do hereby return to the Honourable Mr. Justice ——— (*or* to the High Court of Justice for Ontario; *or as the writ directs*) that A.B. is a prisoner in the County Gaol at ——— aforesaid under and by virtue of a Warrant of Commitment which is hereto annexed, and that the said A.B. was committed to the said common gaol under and by virtue of the said warrant on the ——— day of ——— A.D. 19—.

and the said A.B. is now detained in the said common gaol by virtue of the said warrant and for no other cause or reason whatsoever(*or as the case may be, setting out any other warrants of detention*).

Dated at ——— this ——— day of ——— A.D. 19—.

(*Signed*) G——— H———,
Keeper of the said common gaol.

1646. GAOLER'S CERTIFICATE

To be Written at Foot of Commitment.

I do certify that the above is a true copy of the warrant by virtue of which E.F. is detained in my custody. And that the said E.F. is not detained for any other cause.

(Signed),
(Gaoler of H. M. prison at, &c.)

1647. AFFIDAVIT VERIFYING.

IN THE HIGH COURT OF JUSTICE.

I, A.B. of &c., make oath and say:

1. That I was present at His Majesty's prison at ———, in and for the County of ———, on the ——— day of ——— 19—, and did see C.D., the gaoler of the said prison, sign the certificate written at the foot of the copy of the commitment of ———, hereunto annexed, and that the name C.D., set and subscribed thereto, is of the proper handwriting of the said C.D.

1648. RECOGNIZANCE TO GAOLER.

(To be given if the Production of the Prisoner is not Dispensed with.)

Know all men by these presents that I, A.B., of the ——— of ——— in the County of ——— (*occupation*) am held and firmly bound unto ———, keeper of the common gaol of the County of ———, in the sum of ——— for which sum to be well and truly paid I bind myself, my heirs, executors and administrators, by these presents.

Sealed with my seal and dated this ——— day of ——— A.D. 19—.

Whereas I am now confined as a prisoner in the common gaol of the County of ——— and a writ of habeas corpus has been issued by the High Court of Justice for Ontario to inquire into the cause of my detention directed to the said gaoler.

Now the condition of this obligation is such that if I shall well and truly pay or cause to be paid to the said gaoler upon demand, the charges of carrying me back to said gaol, if I shall be remanded

on the said habeas corpus and if I shall not escape by the way either in going to or returning from the place where I am to be produced under the said habeas corpus then this obligation shall be void, otherwise the same is to remain in full force and virtue.

1649. NOTICE OF MOTION FOR DISCHARGE.

IN THE HIGH COURT OF JUSTICE.

The King against A.B.

Take notice that (*if short notice of motion is to be given, add*, by special leave of the Honourable Mr. Justice ——— this day given), an application will be made before the presiding judge in Chambers at Osgoode Hall, Toronto, on ——— day, the ——— day of ——— A.D. 19—, or so soon thereafter as the motion can be made, for the discharge of the said A.B. from the common gaol of the County of ——— (*or as the case may be*) upon the return of the writ of habeas corpus this day issued in pursuance of the order of Mr. Justice ———, directing the keeper of the common gaol (*or as the case may be*) of the County of ——— to have before one of the judges of the High Court of Justice for Ontario the body of the said A.B. now in custody under the Warrant of Commitment issued in pursuance of a conviction made by C.D. Esquire, police magistrate (*or*, a justice of the peace) for the ——— of ———, for that the said A.B. at the ——— in the County of ——— on the ——— day of A.D. 19—, did unlawfully (*insert the charge as in the conviction or warrant*). And take notice that in support of such application will be read the affidavits of ——— and ——— and the exhibits therein referred to and the return to the said writ of habeas corpus and to the writ of certiorari issued in aid thereof.

Dated at ——— this ——— day of ——— A.D. 19—.

To

The Attorney-General for
the Province of Ontario.

Solicitor for the
said A.B.

And to E.F.
The Prosecutor.

1650. ORDER DISCHARGING PRISONER

On Return of Habeas Corpus.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ——— In Chambers. } ——— day, the ——— day of ——— A.D. 19—.

The King v. A.B.

Upon the application of the above named A.B., upon reading the writ of habeas corpus issued herein on the day of ——— A.D. 19—, and the return made thereto by ———, keeper of the common gaol for the County of ———, (*or as the case may be*) the writ of certiorari, issued on the said last mentioned day, in aid of the said writ of habeas corpus, upon reading the information, conviction and proceedings returned by ———, Esquire, police magistrate (*or* justice of the peace) for the ——— of ———, in compliance with the said writ of certiorari upon reading the affidavits of ——— and the exhibits therein referred to, and upon hearing counsel for the Crown (and for the private prosecutor) and for the said A.B.

1. It is ordered that the said A.B. be, and he is hereby discharged out of the custody of the said ———, the keeper of the said common gaol (*or, as the case may be*) as to his commitment made by the said ———, Esquire, Police Magistrate (*or* justice of the peace), aforesaid, on the information of ——— for that (*set out the charge, as in the commitment*) in so far as the said A.B. is held under the said warrant, and that this order be sufficient authority to the said keeper of the said common gaol for the discharge of the said A.B.

1651. ORDER ON REFUSAL TO COMPLY

With Writ of Habeas Corpus.

IN THE HIGH COURT OF JUSTICE.

The Honourable ——— In Chambers } ——— the ——— day of ——— 19—.

IN THE MATTER OF C.D., an Infant.

To the Sheriff of the City of Toronto and all constables, bailiffs and other of His Majesty's Officers and Ministers within the City of Toronto; Greeting;

Whereas a certain writ of Habeas Corpus was issued in this matter on the ——— day of ——— 19—, requiring A.B. to have before the Judge of the High Court of Justice presiding in Chambers at Osgoode Hall, Toronto, on ——— the ——— day of ———

19—, at the hour of 10 o'clock in the forenoon the body of the said C.D. detained in her custody as it is said under safe and secure conduct together with the day and cause of her being taken and detained by whatever name she may be called or known together with the said writ.

And whereas it has been made to appear that the said writ of Habeas Corpus was duly served on the said A.B. on or about the ——— day of ——— 19—.

And whereas the body of the said C.D. was not produced by the said A.B. nor was any return made to the said writ of Habeas Corpus and it hath been made to appear that she has wilfully neglected to make a return or pay obedience to the said writ and that she has been wilfully disobedient to the said writ and thereby has been guilty of contempt of this Court.

Now therefore you are commanded that you apprehend and take the body of the said A.B. wherever she may be found within your bailiwick and that you have her at Osgoode Hall in the City of Toronto before the Presiding Judge in Chambers forthwith after you have so apprehended her or so soon thereafter as a Judge may be sitting in Chambers to the end that she may be bound to His Majesty the King with two sufficient sureties in the sum of $——— with condition to appear before the High Court of Justice to answer the said contempt and all such other matters as on His Majesty's behalf may be objected against her.

Herein you are not to fail at your peril.

Given under my hand and the seal of the High Court of Justice for Ontario this ——— day of ——— A.D. 19—.

1652. ORDER FOR WRIT OF HABEAS CORPUS

Ad Testificandum.

Upon the application of ——— the defendant above named, and upon hearing read the affidavit of ——— this day filed, and upon hearing counsel for the plaintiff and the defendant, no one appearing for or on behalf of the Honourable the Minister of Justice for Canada, although duly notified of this application, as by affidavit of service of notice thereof appears:

1. It is ordered that a Writ of Habeas Corpus ad Testificandum may issue out of this Honourable Court on behalf of the defendant, directed to the Warden of the Provincial Penitentiary at ———, to bring ——— a prisoner now confined in the said penitentiary before the Judge presiding at the ——— sittings to be holden at the City of ——— in the Province of Ontario on the ——— day of ——— 19— at the hour of ten o'clock in the forenoon, and so from day to day until the above action is tried, to give evidence on behalf of the defendant.

2. And it is further ordered that before execution of the said writ the defendant do pay to the said warden of the said penitenti-

ary the expenses of bringing the said prisoner to ——— and reconveying him to the said penitentiary.

3. And it is further ordered that the costs of this application and of the said writ and execution thereof be costs in the cause.

CHAPTER LXV.

RESERVED CASE.

Criminal Code, Secs. 761-769, 1014-1021.

1653. APPLICATION TO JUSTICE TO STATE A CASE.

To E.F., Esquire, a justice of the peace for the County of——— (*or* to E.F. and G.H., Esquires, justices, &c., *as the case may be*).

Pursuant to section 761 of the Criminal Code, I the undersigned C.D., the person named in the conviction, hereinafter mentioned desire to question the said conviction of me, the said C.D. made by you on the ——— day of ——— A.D. 19—, for that——— (*state the charge*) on the ground that the said conviction is erroneous in point of law (*or* is in excess of jurisdiction) for the reasons herein stated: And I do hereby apply to you to state and sign a case setting forth the facts of the case on the grounds on which the same is questioned by me as aforesaid to wit:

1. (*State the points of law desired to be raised; or the grounds on which excess of jurisdiction is claimed*).

Dated ——— day of ——— A.D. 19—.

C.D.
by J.K.
his Solicitor.

Note.—Under Sec. 761 of the Criminal Code, an appeal from a Summary Conviction is called a STATED CASE. *Under Sec. 1014 of the Code, an appeal from the Assizes, Sessions, Co. Judge's Crim. Ct. Police Magistrate by consent, to Court of Appeal is called a* RESERVED CASE.

1654. CERTIFICATE OF REFUSAL TO STATE A CASE.

I, ——— a justice of the peace in and for the County of ——— do certify at the request of C.D., who was on the ——— day of ——— A.D. 19—, summarily convicted before me on the information of A.B. for (*state the charge*) that after the said conviction was made, namely, on the ——— day of ——— A.D. 19—, the said C.D. desiring to question the said conviction on the ground that it is erroneous in point of law in that (*state the ground of objection*), (*or* that the same is in excess of my jurisdiction as such justice *or as the case may be*), applied to me as such justice to

state and sign a case setting forth the facts of the case and the grounds on which the said conviction is questioned. And I further certify that the said application being in my opinion merely frivolous (*or if the question proposed to be raised is one of fact and not upon a point of law or jurisdiction and so not the proper subject of a case stated, so state*) I did thereupon refuse to state a case thereon; and this certificate thereof is signed and delivered by me to the said C.D. at his request pursuant to section 763 of the Criminal Code of Canada.

Given under my hand at the ——— of ——— in the County of ——— this ——— day of ——— A.D. 19—.

———

The justice of the peace above named.

———

1655. ORDER TO SHEW CAUSE.

IN THE HIGH COURT OF JUSTICE.

Hon. Mr. Justice ——— } ———the ——— day of ——— 19—.
In Chambers. }

IN THE MATTER of the King upon the information of ——— against ———.

Upon the application of the above named ——— upon reading the affidavit of ——— and the exhibits therein referred to and upon hearing counsel for the applicant ———.

It is ordered that ———, Police Magistrate for the City of ——— and ——— of the same place, do appear before the presiding Judge in Chambers at Osgoode Hall, Toronto, on the ——— day of ——— 19—, at the hour of ten o'clock in the forenoon, or so soon thereafter as chambers shall be held, to shew cause why a case should not be stated as provided by subsection 3 of Section 900 of the Criminal Code.

———

1656. ORDER FOR CASE TO BE STATED.

Upon the application of the Honourable The Attorney-General for the Province of Ontario in presence of counsel for the above named ———, upon reading the affidavit of ——— and upon hearing what was alleged by counsel for both parties and judgment being reserved until this day

1. It is ordered that ———, Police Magistrate for the City of ———, do forthwith state a case in this matter for the opinion of this Court as provided by section ——— of the Criminal Code.

1657. RULE NISI TO COMPEL A JUSTICE TO STATE A CASE.

IN THE HIGH COURT OF JUSTICE.

The Honourable Chief Justice ——— | ———day the ——— day
The Honourable Mr. Justice ——— | of ——— A.D. 19—.
The Honourable Mr. Justice ——— |

In the matter of the King upon the information of A.B. against C.D.

Upon the application of the said (C.D.) upon reading the certificate of E.F., one of His Majesty's justice of the peace in and for the County of ———, of his refusal to state a case for the opinion of this court, at the request of the said C.D., touching the question of the validity of a certain conviction made on the ——— day of ——— A.D. 19—, by the said justice for that (*set out the charge*) upon the ground that the same is erroneous in point of law (*or* in excess of the said justice's jurisdiction), upon reading the affidavit of the said C.D. and upon hearing counsel for the said C.D.;

It is ordered that the said E.F. and the said A.B. upon notice to them of this order to be given to them respectively, shall on the ——— day of ——— A.D. 19—, at———o'clock in the forenoon or soon thereafter as counsel can be heard before this court, at Osgoode Hall, Toronto, shew cause why the said E.F. as such justice, should not be ordered to state and sign a case for the opinion of this court upon the following questions:

1. (*Set out the points of law on which the conviction is to be erroneous, or the question as to the justice's jurisdiction*).

On motion of Mr. ——— of counsel for the said C.D.

By the court

Registrar.

1658. AFFIDAVIT IN SUPPORT.

IN THE HIGH COURT OF JUSTICE.

In the matter of the King on the information of A.B. against C.D.

I, C.D. of the ——— of ——— in the County of ———, (*occupation*) make oath and say:

1. That I am the above named defendant C.D.

2. That on the ——— day of ——— A.D. 19—, I was served with a summons (*or* arrested upon a warrant) herein, a true copy of which is now shewn to me marked Exhibit "A," and issued upon an information, a true copy of which is now shewn to me marked Exhibit "B."

3. On the ——— day of ——— A.D. 19—, I appeared before E.F., Esquire, the justice of the peace named in the said proceed-

ings, to answer to the charge therein mentioned, and the said justice thereupon proceeded to hear and determine the said charge in presence of the said informant, A.B. and of myself, and upon hearing the evidence the said justice convicted me of the said charge.

4. That the paper writing now shown to me marked Exhibit "C" is a true copy of the evidence upon the said hearing as taken down by the said justice.

5. That upon the said hearing I took the objection before the said Justice that the said conviction was erroneous in point of law (*or* was in excess of his jurisdiction) upon the grounds following (*here state the questions of law or jurisdiction raised.*)

6. That I thereupon applied to the said justice to state a case for the opinion of this court upon the said questions so raised, but he refused to do so on the ground that the same were merely frivolous; and a certificate of such refusal was then granted by the said justice, which certificate is now shewn to me marked Exhibit "D."

7. (*State any facts which may be necessary to shew that the questions raised are substantial*).

1659. RULE ABSOLUTE TO STATE A CASE.

IN THE HIGH COURT OF JUSTICE.

The Honourable Chief Justice of the ——— } ——— day the
The Honourable Mr. Justice ——— } ——— day of
The Honourable Mr. Justice ——— } ———A.D. 19—.

In the matter of, &c.

Upon the application of the above named C.D. upon reading the rule *nisi* issued on the ——— day of ——— A.D. 19—, the therein mentioned certificate of E.F. a justice of the peace for the County of ——— of his refusal to state a case (*as in form of rule nisi No. 1657*) upon reading the affidavits of ———, and ——— filed, and upon hearing counsel for the said A.B., C.D., and E.F. the convicting justice respectively (*or* no one appearing for the said ——— although duly notified).

1. It is ordered that the said E.F. do forthwith state and sign and transmit to this court a case for the opinion of this court upon the following question:

(1) (*Set out the questions to be submitted*).

2. And it is further ordered that the costs of and incidental to this application be paid by the said A.B. to the said C.D. forthwith after taxation thereof.

On motion of Mr. ——— of counsel for the said C.D.

By the court,

Registrar.

1660. RECOGNIZANCE ON CASE STATED.

Canada
Province of Ontario,
County of ———

Be it remembered that on the day of ———, A.D. 19—, C.D. of the ——— of ——— in the County of ——— (*occupation*) G.H. of the same place (*occupation*) and J.K. of the same place (*occupation*) personally came before me, the undersigned, one of His Majesty's justices of the peace, in and for the said County of——— and severally acknowledged themselves to owe to our Sovereign Lord the King the several sums following, that is to say: The said C.D. the sum of ——— dollars, and the said G.H. and J.K. the sum of ——— dollars each of lawful money of Canada to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lord the King, his heirs and successors, if he, the said C.D. fails in the condition hereunder written.

Taken and acknowledged the day and year first above mentioned at ——— the ——— of ——— in the County of ——— before me.

[SEAL]

M.L. a justice of the peace in and for the County of ———

Whereas the above bounden C.D. was on the ——— day of ——— A.D. 19—, convicted before ———, a justice of the peace in and for the said County of ——— for that the said C.D. (*state the charge*) and afterwards on the ——— day of ——— A.D. 19—, the said C.D. desiring to question the said conviction on the ground that it is erroneous in point of law (*or* is in excess of jurisdiction) applied to the said ——— as such justice to state and sign a case for the opinion of (*name the court e.g. the High Court of Justice for Ontario*).

The condition of the above written bond or obligation is such that if the said C.D. shall prosecute his appeal without delay and submit to the judgment of the said High Court of Justice (*as the case may be*) and pay such costs as shall be awarded by the same. (*If the appellant is not in custody the condition as above is sufficient; but if he is in custody it will be necessary, before he can be liberated, to add the following clause to the condition of the above recognizance:* and further if the said C.D. shall appear before the said ——— the same justice by whom he was convicted as aforesaid or such other justice as is then sitting, within ten days after the judgment of the said court has been given to abide such judgment, unless the judgment appealed against is reversed) then the recognizance to be void, otherwise to stand in full force and virtue.

1661. NOTICE OF SETTLING CASE.

IN THE HIGH COURT OF JUSTICE.

The King on the information of A.B. against C.D.

Take notice that E.F., Esquire, a justice of the peace for the County of ———, has appointed ——— the ——— day of ———, A.D. 19—, at the hour of ——— o'clock in the ———noon, at ———, in the ——— of ———, for settling the case to be submitted by him herein, a copy of which is served herewith.

Dated this ——— day of ——— A.D. 19—.

To ———
Solicitor for the said C.D.
or A.B. Respondent.

Solicitor for the above named A.B.
(*or* C.D. Appellant.

1662. RESERVED CASE.

IN THE HIGH COURT OF JUSTICE.

The King
against
A.B.

The following case is reserved and stated under Section ——— of the Criminal Code by His Honour ———, Esquire, Judge of the County Court of the County of ——— and Chairman of the General Sessions of the Peace of the County of ——— (*or as the case may be:*)

On the ——— day of ——— 19— A.B. was brought up for trial before the Court of General Sessions of the Peace of the County of ——— upon the following indictment:

ONTARIO. } In the General Sessions of the Peace
County of ——. } for the County of ——— for ——— A.D.
To Wit: } ——— 19—.

The Jurors for our Lord the King present that A.B. on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— at the Township of ——— in the said County unlawfully did (*here state the offence*).

On the ——— day of ——— 19— the said A.B. was tried at the sittings of the said Court holden at the City of ——— in the County of ——— and was convicted of the offence charged, and judgment on the said conviction was postponed until the questions hereinafter stated should be decided.

The said A.B. is in prison (*or* has been discharged on recognizance of bail to appear and receive judgment *or as the case may be*).

The questions reserved for the consideration of the Court are: (*state the questions interrogatively, thus:*)

1. Has the Council of the Village of ——— jurisdiction to pass the By-law Exhibit "A"? (*or as the case may be*).

If the Court should be of the opinion that such question should be answered in the negative then the conviction should be set aside and the accused acquitted.

2, 3, &c.

The material parts of the evidence are as follows: (*here set out the evidence and exhibits if any.*)

Dated at ——— the ——— day of ——— 19—.

Judge of the Court of General Sessions of the Peace of the County of ———.

Approved.

Clerk of the Peace and County Crown Attorney for the County of ———.

1663. RESERVED CASE.

Another Form.

IN THE HIGH COURT OF JUSTICE.

In the matter of the King upon the information of A.B. (*Respondent*) and C.D. (*Appellant*).

Case stated by E.F., one of His Majesty's justices of the peace in and for the County of ——— under the provisions of section 761 of the Criminal Code of Canada.

1. On the ——— day of ——— A.D. 19—, an information was laid, under oath, before me by the above named A.B. for that the said C.D. on ——— at ——— (*state the offence*).

2. On the ——— day of ——— A.D. 19—, the said charge was duly heard before me in the presence of both parties, and after hearing the evidence adduced and the statements of the said A.B. and C.D. and their solicitors (*or* counsel) I found the said C.D. guilty of the said offence and convicted him thereof, but at the request of the solicitor (*or* counsel) for the said C.D. I state the following case for the opinion of this Honourable Court:

It was shewn before me that (*here set out the findings of fact under which the point of law arises*).

The solicitor (*or* counsel) for the said C.D. desires to question the validity of the said conviction on the ground that it is erroneous in point of law (*or* is in excess of jurisdiction) the questions submitted for the judgment of this Honourable Court being: (*here state the questions submitted, as for instance*).

1. Whether the Municipal Act R.S.O. Ch. ———, Sec. ——— is constitutionally valid and binding upon the appellant, or is he, by reason of the above mentioned facts, not bound by the provisions thereof (*or as the case may be*).

2. *State other points of law in question for the opinion of the court, if any*).

1664. NOTICE OF HEARING CASE STATED.

IN THE HIGH COURT OF JUSTICE.

The King on the information of A.B. against C.D.

Take notice that an application will be made before a judge of this court in Chambers at Osgoode Hall, Toronto, on ——— the ——— day of ———, A.D. 19—, at ——— o'clock in the forenoon, or as soon thereafter as the application can be made for the hearing and determining by the court of the questions of law arising on the case stated by E.F., Esquire, a justice of the peace for the County of ———, in this matter.

Dated this ——— day of ———, A.D. 19—.

To the above named A.B. and
to E.F. the justice of the
peace above named.

G.H.
Solicitor for the said C.D.

1665. ORDER ON HEARING RESERVED CASE.

IN THE HIGH COURT OF JUSTICE.

(Date)

Before the Hon.
Mr. Justice ———
In Chambers

The King, upon the information of A.B., Appellant, C.D., Respondent,

Upon the application of the above named C.D., upon reading the case stated by E.F., Esquire, a justice of the peace for the County of ——— in this matter touching the question of the validity of a certain conviction of the said C.D. made by the said justice of the peace on the ——— day of ——— A.D. 19—, for that (*set out the charge*) upon the grounds that the same is erroneous in point of law (*or* in excess of jurisdiction, *or as the case may be*) and submitting the following questions for the opinion of this court thereon, namely:

(1.) (*Set out the questions submitted*).

Upon hearing counsel for the said C.D. and for the said A.B. and E.F. respectively (*or* no one appearing for the said ——— although duly notified).

1. It is ordered that the said conviction be and the same is hereby affirmed (*or* quashed, *as the case may be, see Code 765*).

2. And it is further ordered that the costs of and incidental to this application be paid by the said ——— to the said ——— forthwith after taxation thereof.

1666. ORDER AFTER HEARING RESERVED CASE.

Another Form.

IN THE HIGH COURT OF JUSTICE.

The Honourable
The Chief Justice ——— of the ——— In Chambers. | ——— the ——— day of ——— A.D. 19—.

The King, upon the relation of A.B., vs. C.D.

To the Police Magistrate for the City of ———.

Whereas on the ——— day of ———, 19—, upon the information of A.B. the above named C.D. the alleged owner of a factory known as No. ——— on the north side of ——— Street in the City of ——— was charged before you ———, Police Magistrate for the City of ——— for that he did, &c.

And whereas the said Police Magistrate of the said City of ——— having refused to make a conviction, did upon request of the Crown in pursuance of section ——— of the Criminal Code, state and transmit in a case signed by him reserved for the consideration of one of the Justices of the High Court for Ontario the question:

"Whether the said C.D. upon the facts found by him, should or should not have been convicted of the offence charged.

Now, I, the Honourable ——— Chief Justice of the ——— of the High Court of Justice for Ontario pursuant to the provisions of the Criminal Code ——— in that behalf.

Do hereby certify that having heard and considered the said question and what was alleged by Counsel for the Crown and for the said C.D. respectively.

I have ordered and adjudged and finally determined and I do hereby order and adjudge and finally determine as follows:

That the said C.D. should be convicted of the offence charged.

And it is further ordered that the said police magistrate do enter a conviction in accordance herewith.

In witness whereof I have hereunto set my hand at Toronto aforesaid this ——— day of ——— A.D. 19—.

1667. CASE RESERVED FOR COURT OF APPEAL.

IN THE COURT OF APPEAL FOR ONTARIO.

The King
against
A.B.

Case Reserved for the Court of Appeal for Ontario by the Honourable Mr. Justice ———.

STATEMENT OF FACTS.

QUESTIONS SUBMITTED FOR THE CONSIDERATION OF THE COURT.

(1) Was I right in admitting in evidence the fact that the four knives were found in the trunk of the prisoner at his boarding house?

(2) Was I right in that part of the charge set out in paragraph 8?

(3) Did I exceed my powers as a Judge when in my Charge I used the words set out in paragraph 9?

(4) Did I exceed my powers as a Judge when I used the words set out in paragraph 10?

(5) Was I right in my charge as to the spasms or fits, set out in paragraph 12?

(6) Was I right in my charge to the jury upon the question of drunkenness?

(7) Did I exceed my powers as a Judge in telling the Jury that they might, if they saw fit, make any recommendation recommending mercy, or in asking the Jury to go and see if they could agree in five minutes, under the circumstances set out in paragraph 15?

(8) Upon the above grounds, or any of them, should there be a new trial?

(Signature of Judge.)

1668. ORDER OF COURT OF APPEAL.

IN THE COURT OF APPEAL FOR ONTARIO.

Present:

The Honourable the Chief Justice of Ontario.
The Honourable Mr. Justice ———.
The Honourable Mr. Justice ———.
The Honourable Mr. Justice ——— and
The Honourable Mr. Justice ———.

The King
v.
A.B.

To the Clerk of the Peace for the County of York and to ———, Esquire, Police Magistrate for the City of ———.

Whereas at a sittings of the Police Court for the City of ——— holden on the ——— day of ———, 19—, before ———, Esquire, Police Magistrate for the City of ——— the said A.B. was convicted under Sections 227 and 235 of the Criminal Code:

And whereas under Section 1014 of the Criminal Code the said Police Magistrate reserved for the consideration of the Court of Appeal the following questions of law arising on the evidence:

1. On the evidence could the premises on ——— Street be held to be a common betting house?

Now I, the Honourable Sir Charles Moss, Chief Justice of Ontario and of the said Court of Appeal, pursuant to the Criminal Code in that behalf:

Do hereby certify that the said Court of Appeal having met on the ——— day of ——— 19—, and having heard and considered the case reserved for the Court and what was alleged by Counsel for the Crown and for the said A.B. respectively, and having reserved judgment until this day:

It was ordered and adjudged and finally determined as follows:

That the question should be answered in the affirmative and that the conviction of the said A.B. be affirmed.

In witness whereof I have hereunto set my hand this ——— day of ——— 19—.

CHAPTER LXVI.

APPEALS FROM CONVICTIONS.

Ontario Summary Convictions Act.
10 Edw. VII. (1910), ch. 37, sec. 10.
Criminal Code, sec. 749.

1669. NOTICE OF APPEAL.

To C.D., of ——— (*the name and addition of the prosecutor*).

Take notice that I, the undersigned A.B., of ———, intend to enter and prosecute on appeal at the next general sessions of the peace in and for the County of ——— (*or* of the Division Court in the County of ——— (*as the case may be*), to be holden at ———, in the County of ———, against a certain conviction (*or* order) bearing date on or about the ——— day of ———, instant, and made by J.S., Esquire, a justice of the peace in and for the said County of ———, whereby I, the said A.B. was convicted of having (*or* was ordered to pay ——— (*here state the offence as in the conviction, or the amount ordered to be paid, etc., as correctly as possible*).

Dated at ———, this ——— day of ———, one thousand nine hundred and ———.

A.B.

1670. NOTICE GIVING GROUNDS OF APPEAL.

Criminal Code, sec. 750.

In the Court of General Sessions of the Peace (*or* in the ——— Division Court) for the County of ———.

In the matter of the appeal from the conviction of the appellant, by E.F., Esquire, justice of the peace for the said county, dated the ——— day of ———, A.D. 19—, for (*state the charge as in the conviction*).

Between

A.B.,
Appellant,
and
C.D.,
Respondent.

Take notice that the following are the grounds of the appeal herein:

1. That the said A.B. is not guilty of the offence stated in the said conviction.

2. That the said justice had no jurisdiction to convict the said A.B., the alleged offence not having arisen within the territorial limits of the said justice (*or stating any other grounds on which is contended the justice had no jurisdiction over the case*).

3. That the evidence taken before the said justice did not disclose any criminal offence, for which the said A.B. could be convicted.

4. (*And proceed to state any other grounds.*)

5. And upon such other grounds as appear upon the proceedings and conviction.

Dated, etc.

To C.D., the respondent, and to G. H., Esq., his solicitor.

A.B.,
Appellant.

1671. RECOGNIZANCE ON APPEAL.

Criminal Code, sec. 750.

Canada,
Province of ———,
County of ———.

Be it remembered that on the ——— day of ———, A.D. 19—, A.B., of the ——— of ———, in the County of ——— (*occupation*), and C.D., of the ——— of ———, in the County of ——— (*occupation*), personally came before the undersigned, G.H., a justice of the peace in and for the said County of ———, and severally acknowledged themselves to owe to our Sovereign the King the several sums following, that is to say, the said A.B. the sum of ———, the said C.D. the sum of ———, and the said E.F. the sum of ——— each (*the amount filled in should be double the amount of any money penalty, and the costs awarded by the conviction and the probable costs of the appeal*), of good and lawful money of Canada to be levied on their several goods and chattels,

lands and tenements respectively, to the use of our said Sovereign the King, his heirs and successors, if the said A.B. fails in the condition hereunder written.

Taken and acknowledged the day and year first above mentioned, at the ——— of ———, in the County of ———, before me.

(*Signed*) G.H.,
J.P., County of ———.

The condition of the above written recognizance is such that if the said A.B. personally appears at the (next) general sessions of the peace (*or name the court to which the appeal is made according to Code 749*), to be holden at the ——— of ———, in the County of ———, on the ——— day of ———, A.D. 19—, in and for the said County of ———, and tries an appeal against a certain conviction bearing date the ——— day of ———, A.D. 19—, and made by me the said justice of the peace for the County of ———, whereby he the said A.B. was convicted for that, he the said A.B. did, at ———, in the said County of ———, on the ——— day of ———, A.D. (*set out the offence as stated in the conviction*), and also abides by the judgment of the Court upon such appeal, and pays such costs as are by the Court awarded, then the said recognizance to be void, otherwise to remain in full force and virtue.

(*Signed*) G.H.,
J.P.

1672. AFFIDAVIT TO LET IN DEPOSITIONS AS EVIDENCE.

Criminal Code, sec. 752 (3).

In the Court of General Sessions of the Peace for the County of ——— (*or* in the ——— Division Court in the County of ———, *as the case may be*).

In the matter of an appeal.

Between

A.B.,
Appellant,

and

C.D.,
Respondent.

I, ———, of the ——— of ———, in the County of ——— (*occupation*, e.g., constable, *or as the case may be*), make oath and say:

1. That on the ——— day of ———, A.D. 19—, I was directed on behalf of (the appellant *or* respondent, *as the case may be*) to serve a subpœna or summons then delivered to me for that purpose upon one ———, of the ——— of ———, in the County of ——— (*occupation*), who was one of the witnesses, and who gave evidence

at the hearing of the said charge before ———, Esquire, the convicting justice, in order to obtain the personal attendance of the said ——— as a witness at the present sitting of this court on the hearing of the appeal herein now pending in said court.

2. That on the ——— day of ———, A.D. 19—, I accordingly called at the place of residence of the said ———, at the said ———, for the purpose of serving him with the said subpœna and enquiring there for the said ———, I was informed by the wife of the said ——— (*or as the case may be, shewing the person to be a grown-up resident of the place mentioned*), that the said ——— was not then at home. I then stated to the said wife of the said ——— (*or other person spoken to*) the nature of my business, and told her (*or* him) that I would call again for the purpose of serving the said subpœna at ——— (*naming the day and hour at which the call was to be made*), and that I accordingly (*here state whatever calls were made and other attempts to effect service, and if the witness has a place of business, shew what efforts were made to serve him there; also state what the persons seen at the witness' residence and place of business said in reply to the questions asked as to the whereabouts of the witness, giving the questions and answers. If the witness has gone abroad, shew if possible where he is alleged to have gone to, and state such facts and circumstances as would satisfy the court that all reasonable efforts have been made to obtain the personal attendance of the witness to give evidence. What the officer said and the answers to his questions should be distinctly stated.*)

3. That I have made all reasonable efforts and used all due means in my power to serve the said ——— with the said subpœna, and to procure his personal attendance at the hearing of the said appeal, and I have not been able to do so.

1673. NOTICE OF ABANDONMENT OF APPEAL.

In the Court of General Sessions of the Peace for the County of ——— (*or* in the ——— Division Court in the County of ———.

In the matter of an information (*or* complaint) laid before ——— by A.B. against C.D. for that (*set out the charge*).

Take notice that I do hereby abandon my appeal to this court against the conviction of me, the said C.D., for the alleged offence above mentioned.

Dated this ——— day of ———, A.D. 19—.

C.D.,

By E.F., his solicitor.

1674. CERTIFICATE OF JUDGMENT ON APPEAL.

Criminal Code 759.

Office of the Clerk of the peace for the County of ——— (*or* of the ——— Division Court in the County of ———).

I hereby certify that at a court of general sessions of the peace (*or the name of the court to which the appeal was made, as the case may be*), holden at ———, in and for the said county, on ——— last past, an appeal by A.B. against a conviction (*or* order) of J.S., Esquire, a justice of the peace in and for the said county, came on to be tried, and was there heard and determined, and the said court of general sessions (*or other court, as the case may be*) thereupon ordered that the said conviction (*or* order) should be confirmed (*or* quashed), and that the said (*appellant*) should pay to the said (*respondent*) the sum of ——— for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the clerk of the peace for the said county, on or before the ——— day of ——— (instant), to be by him handed over to the said (*respondent*), and I further certify that the said sum for costs has not, nor has any part thereof been paid in obedience to the said order.

Dated at ———, this ——— day of ———, one thousand nine hundred and ———.

G.H.,
Clerk of the Peace
(*or* Clerk of the ——— Division Court, County of ———.)

1675. APPEAL TO COUNTY JUDGE—SUMMONS.

In the County Court of the County of ———.

His Honour ———, Judge of the County Court of the County of ———, in Chambers. } ——— day, the ——— day of ———, A.D. 19—.

In the matter of the appeal between A.B., appellant, and C.D., respondent.

Upon reading the conviction made herein, on the ——— day of ———, A.D. 19—, the depositions of witnesses taken before the convicting justice (*or* justices) the notice of appeal and affidavit of service thereof and other papers filed with the clerk of this court, and upon hearing what was alleged, let the above named respondent, C.D. (*the complainant*) and the County Crown Attorney for the County of ———, attend before me at my chambers, in the court house in the ——— of ———, in the County of ———, on ——— day the ——— day of ——— A.D. 19— at ——— o'clock in the forenoon and shew cause why the conviction of the above-named appellant made upon the complaint of the respondent dated the ——— day of ——— A.D. 19—, and now on file with the clerk of this court, and made by ———, a

justice of the peace in and for the County of ——— (*or as the case may be*) whereby the said appellant A.B. was convicted for that (*set out the charge*) the said C.D., being the informant, and the said justice (*or* justices) adjudged the said A.B. for his said offence (*set out the adjudication*) should not be set aside and quashed with costs on the grounds:

1. (*Here state the grounds of objection to the conviction*) and upon grounds disclosed in said affidavits and papers filed.

Judge.

Note.—In Ontario the appeal is either to the Sessions or to the Division Court.

1676. ORDER ON APPEAL TO COUNTY JUDGE.

In the County Court of the County of ———.

His Honour ———, the Judge of the County Court of the County of ———, in chambers. } ——— day, the ——— day of ———, A.D. —.

In the matter of, etc. (*as in above summons*).

Upon reading the summons granted herein on the ——— day of ———, A.D. 19—, the information, depositions of witnesses, the conviction herein and all others, the papers filed, and upon hearing counsel for the appellant and respondent (*or as the case may be*) (*or* the said ——— not appearing, although duly notified in that behalf as required by law as by affidavit of service appears.

I, ———, judge of the County Court of the County of ———, do order and adjudge that the conviction of the appellant made upon the complaint of the respondent dated the ——— day of ———, A.D. 19—, and now on file with the clerk of this court, and made by ———, a justice of the peace in and for the County of ——— (*or as the case may be*) whereby the said appellant A.B. was convicted for that (*here set out the charge as in the conviction*), the said C.D. being the informant, and whereby it was adjudged that the said A.B. (*set out the adjudication*) be and the same is hereby quashed, rescinded and set aside without costs (*or* with costs to be paid by the said C.D. to the said A.B. forthwith with taxation (*as the case may be*).

CHAPTER LXVII.

BAIL PROCEEDINGS, &c.

Criminal Code, Secs. 696-701.

1677. ORDER ADMITTING PRISONER TO BAIL.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ———. In Chambers. } ——— the ——— day of ——— A.D. 19—.

The King
against
A.B.

Upon the application of the above named A.B., upon hearing counsel for the applicant and for the Attorney-General for the Province of Ontario, upon hearing read the certified copy of all informations, examinations and other evidence wherewith the prisoner A.B. has been charged, together with a copy of the warrant of commitment under the hand and seal of ———, Esquire, one of His Majesty's Justices of the Peace in and for the County of———, whereby he, the said A.B., was committed for trial on the charge of manslaughter preferred by———, and counsel for the Attorney-General consenting thereto:

1. It is ordered that upon the said A.B. entering into a recognizance before two Justices of the Peace in and for the County of ———, himself in the sum of ——— dollars, and two sufficient sureties in the sum of ——— dollars each, to the satisfaction of the Crown Attorney in and for the said County, the said A.B. be admitted to bail to appear for trial at the next Court of competent jurisdiction in and for the said County.

1678. ORDER FOR BAIL.

Sessions.

In the County Court Judge's Criminal Court in and for the County of ———.

HIS HONOUR, ——— presiding. } ———day, the ——— day of ——— A.D. 19—.

King
vs.

Upon motion unto this Court by Mr. ——— Counsel for prisoner.

It is ordered that the prisoner be released from custody upon his own bond in the sum of ——— Dollars, and the bonds of ——— of ——— and ——— of ——— each in the sum of ——— Dollars duly given unto this Court, conditional that the said ——— shall personally re-appear before this Court for ——— on this charge ———or whenever else notified so to re-appear.

1679. RECOGNIZANCE OF BAIL.

In Criminal Proceedings.

PROVINCE OF ONTARIO.
County of ———.
City of ———.
To Wit:

Be it remembered that on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— A.B., of the ——— of ——— in the County of ———, (*occupation,*) and C.D. of &c. and E.F. of &c. (*prisoner and two sureties*) personally came and appeared before us, the undersigned L.M. and R.S., Esquires, two of His Majesty's Justices of the Peace in and for the said City (*or as the case may be,*) and severally acknowledged themselves to owe to our Sovereign Lord the King, his heirs and successors, the several sums following, that is to say: the said A.B. the sum of ——— dollars and the said C.D. and E.F. the sum of ——— dollars each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lord the King, his heirs and successors, if he the said A.B. fails in the condition hereunder written.

Taken and acknowledged the day and year first above mentioned at the said City of ——— before us.

L.M.
R.S.
Justices of the Peace.

CONDITION.

The condition of the above written recognizance is such that whereas the said A.B. was indicted by the Grand Jury at the Criminal Assizes for that he did (*here set out the offence charged:*)

Therefore, if the said A.B. appears at the next Court of Oyer and Terminer or Court of Quarter Sessions of the Peace to be holden in and for the said City of ——— and County of ———, and there surrenders himself into the custody of the Keeper of the Common Jail there, and pleads to such indictments as may be found against him by the Grand Jury for and in respect to the charge aforesaid, and takes his trial upon the same, and does not depart the said Court without leave, then the said recognizance to be void, otherwise to stand in full force and virtue.

NOTICE TO DEFENDANT AND SURETIES.

PROVINCE OF ONTARIO.
County of ———.
City of ———.
To Wit:

Take notice that you A.B. are bound in the penal sum of ——— dollars, and your sureties C.D. and E.F. in the sum of ——— dollars each, that you the said A.B. appear at the next Court of Oyer and Terminer or Court of Quarter Sessions of the Peace, to be holden in and

for the said City of ——— and County of ———, and not depart the said Court without leave. And unless you the said A.B. personally appear and take your trial accordingly, the amount mentioned in the recognizance entered into by you A.B. and your sureties C.D. and E.F. shall be forthwith levied on you and them.

Dated at the City of ——— this ——— day of ——— one thousand nine hundred and ———.

1680. AFFIDAVIT OF EXECUTION.

of Recognizance.

IN THE HIGH COURT OF JUSTICE.

(*Style of cause.*)

I, ———, of the ——— of ———, in the County of ——— (*addition or occupation*), make oath and say:—

1. That I was personally present and did see the within and annexed recognizance duly signed, sealed and executed by ——— and ———, the parties thereto.

2. That the said recognizance was signed, sealed and executed at the ——— of ———, in the County of ———.

3. That I know the said parties.

4. That I am a subscribing witness to such execution, and that the name "———" set and subscribed as a witness thereto is of the proper handwriting of me this deponent.

Sworn before me at the ——— of ———, in the County of ———, this ———day of———, 19—.

A Commissioner, &c.

1681. WARRANT FOR RELEASE FROM CUSTODY.

Of Person charged with Criminal Offence.—After Recognizance of Bail.

CANADA. PROVINCE OF ONTARIO. County of ———. City of ———. To Wit:	To the Keeper of the Common Gaol of the said County of ——— and City of ——— (*or as the case may be:*)

Whereas A.B., of the City of ———, hath before us C.D. and E.F., Esquires, two of His Majesty's Justices of the Peace in and for the said City of ———, entered into his own recognizance and found sufficient sureties for his appearance at the next Court of competent jurisdiction to be holden in and for the said City of ——— and County of ———, to answer to our Sovereign Lord the King for that he the said A.B. on the ——— day of ——— in the year of our Lord one thousand nine hundred and ——— at the City

of ——— in the County of ——— did (*here set out the offence charged,*) for which he was taken and committed to your said Common Gaol: These are therefore to command you, in His said Majesty's name, that if the said A.B. do remain in your custody in the said Common Gaol for the said cause and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seal this ——— day of ——— in the year of our Lord 19— at the City of ——— in the County of ——— aforesaid.

CHAPTER LXVIII.

PROCEEDINGS IN GENERAL SESSIONS, ETC.

1682. ORDER OF SESSIONS—GENERAL FORM.

In the General Sessions of the Peace in and for the County of ———.

His Honour ———, Chairman, presiding } ——— day, the ——— day of ———, A.D. 19—.

King vs. } Indicted for

Upon motion made unto this Court by Mr. ———, counsel for prisoner:

It is ordered that the ———.

1683. ORDER FOR DISCHARGE OF PRISONER.

In the County Court Judge's Criminal Court in and for the County of ———.

His Honour ———, presiding. } ——— day, the ——— day of ———, A.D. 19—.

King vs. }

Upon motion made unto this Court by Mr. ———, counsel for prisoner:

It is ordered that the Sheriff of the County of ——— be and he is hereby directed to release and discharge the said ——— from custody under this charge.

1684. ORDER TO RE-CONVEY PRISONER.

In the County Court Judge's Criminal Court in and for the County of ———.

His Honour ———, presiding. } ——— day, the ——— day of ———, A.D. 19—.

King vs.

Upon motion unto this Court by Mr. ———, counsel for prisoner:

It is ordered that the Sheriff of the County of York be and he is hereby directed to re-convey the said ——— to the county gaol, there to be detained in safe custody until the ——— day of ———, A.D. 19—, or until such other day as this Court may appoint, upon which last mentioned day the Sheriff aforesaid will again have the said ——— before this Court for sentence.

1685. ORDER TO BRING UP PRISONER TO TESTIFY.

In the Court of General Sessions of the Peace in and for the County of ———.

The King vs.

Upon the application of ——— I do order that the ——— do forthwith deliver ———, a prisoner confined in the said ———, to the Sheriff of the County of ———, or such person as the said Sheriff shall duly by writing under his hand, name and depute to receive the said ——— from the said ———.

And I do hereby order the said Sheriff, or such person authorized by him as aforesaid, forthwith to convey the said ——— to the City of ———, and there produce and have him before our said Court and the Grand Jury thereof, to testify and give evidence on behalf of the Crown touching a certain felony charged against the accused ———, and thereafter forthwith to re-convey the said ——— in sure and safe custody back to the said ———, and there re-deliver him to the said ———, unless this Court make further order to the contrary.

Dated in Court, at the Court House in ———, this ——— day of ———, A.D. ———.

———,
Judge.

1686. AFFIDAVIT FOR SUBPOENA TO WITNESS OUT OF THE PROVINCE.

In the High Court of Justice, or ———.

In the County Court of the County of ———.

In the matter of an information laid by A.B. against C.D. before E.F., Esquire, a justice of the peace in and for the County of ———, and for that (*state offence as charged*).

I, A.B., of, etc., make oath and say:

1. I am the above named informant, A.B.

2. That on the ——— day of ———, A.D. 19—, I duly laid an information before the above named justice of the peace, a true copy of which information is now shewn to me, marked Exhibit "A."

3. That the said justice of the peace thereupon issued his warrant for the apprehension of the said C.D., who has been arrested and is now in custody (*or* on bail, *or as the case may be*) upon the said charge, and the said justice has appointed the ——— day of ———, A.D. 19—, for the holding of the preliminary inquiry upon the same, and the prosecution of the said C.D. upon the said charge is now pending before the said justice.

4. That one, G.H., is, as I am informed and believe, likely to give material evidence for the prosecution respecting the said charge, the nature of such evidence being, as I am informed and believe that (*state in general terms the nature of the evidence as to satisfy the judge or court that the proposed witness is likely to give material evidence*).

5. I am informed and believe that the said G.H. has in his possession or control certain documents relating to the matter in question, namely (*state what documents are desired to be produced*).

6. That the said G.H. resides at ———, in the Province of Quebec, within the Dominion of Canada, and is out of the Province of Ontario, and I desire that a subpœna should issue requiring the said G.H. to appear before the said justice, at the said time and place, to give evidence respecting the said charge, and to bring with him any documents in his possession or control relating thereto, and particularly the documents above mentioned.

1687. ORDER FOR SUBPOENA TO WITNESS OUT OF THE PROVINCE.

In the High Court of Justice. The Honourable Mr. Justice ———, in Chambers, *or* In the County Court, etc. His Honour ———, Judge of the said Court, in Chambers.	——— day, the ——— day of ———, A.D. 19—.

In the matter of, etc. (*as in above affidavit*).

Upon the application of A.B., the informant above named, and it appearing that one, G.H., residing at the ——— of ———, in the Province of Quebec, out of this Province, and not being in this Province, is likely to give material evidence for the prosecution in the above matter now pending before the said justice, and that he is alleged to have in his possession or control certain documents relating to the said charge and particularly (*state what documents it is to have produced*).

It is ordered that a Writ or Subpœna be issued under the Seal of this court, requiring the said G.H. to appear before the said justice at ———, in the ——— of ———, in the County of ———, on ———, the ——— day of ———, A.D. 19—, to give evidence respecting the said charge, and to bring with him, and produce at the said time and place any documents in his possession, or under his control, relating thereto, and particularly the documents hereinbefore specially mentioned.

1688. AFFIDAVIT FOR COMMISSION.

To Take Evidence Out of Canada.

In the High Court of Justice (*or as the case may be*).

In the matter of, etc.

I, A.B., etc., make oath and say:

1. I am the above named informant in this matter.

2. On or about the ——— day of ———, A.D. 19—, I duly laid an information against the above named C.D., before E.F., Esquire, a justice of the peace in and for the County of ———, for an indictable offence, namely, that (*set out the charge*).

3. The prosecution of the said C.D. for the said offence is now pending before the said justice of the peace.

4. That G. H., a person who resides at ———, out of Canada, and is not now in Canada, is, as I am informed and verily believe, able to give material information relating to the said offence, such information being that (*state in a general way the evidence the witness will give, so as to satisfy the court that it is material.*)

5. That J. K., of (*residence and occupation*), is, as I am informed and believe, a fit and proper person to be appointed a commissioner to take the evidence of the said G.H.

1689. NOTICE OF MOTION FOR COMMISSION

To Take Evidence Out of Canada.

In the High Court of Justice,

or

In the County Court of the County of ———.

(*Style of cause.*)

Take notice that an application on behalf of the above named A.B. (*or* C.D., *as the case may be*), will be made to the Honourable the presiding judge in Chambers, of the High Court of Justice, at Osgoode Hall, Toronto (*or* to His Honour the judge of the County Court of the County of ———), on ———, the ——— day of ———, A.D. 19—, at ten o'clock in the forenoon, or so soon thereafter as the application can be made for an order appointing a commissioner to take the evidence *viva voce*, upon oath or affirmation, of G.H., a witness who resides out of Canada, and is able to give material information relating to the charge of an indictable offence, for which a prosecution is now pending upon the information of the above named A.B., against the above named C.D. for that (*state the charge*).

And take notice that the name and address of the commissioner proposed to be so appointed is L.M., of the ———, of ———, in the State of ———, one of the United States of America (*or as the case may be, adding the person's occupation*). And further take notice that upon such application will be read the affidavit of the said ———, this day filed, and the exhibits therein referred to.

Dated at ———, the ——— day of ———, A.D. 19—.

To ———.

The above named (C.D. *or* A.B.), and to ———, his solicitor.

Solicitor for the said (A.B. *or* C.D.)

1690. ORDER APPOINTING COMMISSION

To take evidence out of Canada.

(*Heading and style of cause.*)

Upon the application of the above named A.B. and upon reading the affidavit of ——— filed, and upon hearing both parties by their solicitors (*or* counsel), and it appearing that G.H., who resides out of Canada, is able to give material information relating to an indictable offence for which a prosecution is now pending in this matter;

1. It is ordered that J.K. of (*residence and occupation*) be and he is hereby appointed a commissioner to take the evidence *viva voce* upon oath or affirmation of the said G.H. at ——— aforesaid, and that a commission do issue for that purpose under the seal of this court directed to the said commissioner.

2. It is further ordered that ——— days' previous notice of the mail or other conveyance, by which the said commission is to be sent out, shall be given by the said A.B. to the said C.D., or to his solicitor.

1691. AFFIDAVIT FOR COMMISSION

To Examine Witness who is Dangerously Ill.

In the High Court of Justice (*or* in the County Court of the County of ———).

In the matter of an information laid by A.B. against C.D. before E.F., Esquire, a justice of the peace in and for the County of ———, for an indictable offence, to wit: for that (*state the charge*).

I, A.B., of the ——— of ———, in the County of ——— (*occupation*), make oath and say:

1. I am the informant A.B. above named.

2. On the ——— day of ———, A.D. 19—, I duly laid an information against the above named C.D. for the indictable offence above mentioned, and the proceedings thereon are now pending before the said justice.

3. That G.H., of the ——— of ———, in the County of ———, is a material and necessary witness, and is able to give material information relating to the said offence, and he, the said G.H. is, as he has informed me in an interview which I had with him on the ——— day of ——— instant, willing to give such information, which is (*here state in a general way the evidence which the witness is able to give so as to shew its materiality*).

4. That the said G.H., according to the opinion of J.K., of ———, a duly licensed medical practitioner, which is now shewn to me marked Exhibit A, to this my affidavit, and which was given to me by the said J.K. on the day of its date, is dangerously ill and not likely to recover from such illness, and the attendance of the said G.H. to give evidence cannot by reason thereof be procured.

5. That L.M., a justice of the peace residing at ———, is a fit and proper person to take the evidence of the said witness.

6. The said C.D. is now in actual custody in the common gaol of the County of ———, and has been served with the notice now shewn to me marked "B."

1692. ORDER APPOINTING A COMMISSIONER

To Examine a Witness Dangerously Ill.

In the matter of, etc. (*as in the above affidavit*).

Upon the application of the above named A.B., upon reading the affidavits of ———, and ——— filed, and it appearing to my satisfaction that one G.H., a person who is dangerously ill, and

who, in the opinion of a duly licensed medical practitioner, is not likely to recover from such illness, is able and willing to give material evidence relating to the indictable offence above mentioned.

1. It is ordered that L.M. of ———, a justice of the peace in and for the County of ——— (*or as the case may be*), be and he is hereby appointed a commissioner to take in writing the statement on oath or affirmation of the said G.H., pursuant to section 995 of the Criminal Code of Canada, the examination of the said witness to be *viva voce*.

2. And it is further ordered and directed that the keeper of the common gaol for the County of ———, in whose custody the above named C.D. now is, do convey the said C.D. to the Town Hall, in the Town of ———, on the ——— day of ———, A.D. 19—, at ——— o'clock in the ———noon, being the place mentioned in the notice served on the said C.D. of an intention to take the said statement for the purpose of being present at the taking of the said statement.

1693. NOTICE OF INTENTION

To Take the Evidence of a Witness who is Dangerously Ill.

To C.D.

Take notice that it is intended on the ——— day of ——— ———, A.D. 19—, at (*place where evidence to be taken*) in the Town of ——, at the hour of —— o'clock in the —— noon, to take the statement of G.H., of ———, on oath or affirmation, under an order of a judge of the High Court of Justice (*or* of the County Court of the County of ———, *as the case may be*), appointing L.M., of ———, a commissioner to take such statement touching the matter of a charge for an indictable offence now pending against you before E.F., Esquire, a justice of the peace for the County of ———, upon the information of A.B. for that (*state the charge*).

Solicitors for the said A.B.

1694. FORM OF DEPOSITIONS TAKEN ON COMMISSION.

(*To be attached and returned with the commission.*)

Canada.
Province of ———,
County of ———.

} The depositions of L.K., of the ——— of ———, in the County of ——— (*occupation*).

Taken on oath (*or* affirmation) before the undersigned E.F., the commissioner named in the commission hereto annexed, at the ——— of ———, in the County of ———, on this ——— day of ———, A.D. 19—, under the said commission, in the presence and

hearing of C.D., named in the said commission (*or* after notice to the said C.D.) and of A.B. (*the prosecutor*) also named therein (*or* after notice to him).

The said deponent, L.K., upon his oath (*or* affirmation), says as follows:

(*Here insert the witness' statement in the words used by him as nearly as possible, and at its conclusion have the same signed at the foot by the witness and also by the commissioner.*)

The depositions of the above named L.K., written on the several sheets of paper, to the last of which my signature is subscribed, were taken in the presence and hearing of the above named A.B. and C.D. and signed by the said L.K. in their presence, and I further certify that the solicitor or counsel for the said A.B. (or C.D., *naming the prosecutor or defendant, as the case may be, against whom the evidence is to be used*) had (*or* might or would have had if he had chosen to be present, *as the case may be*) full opportunity of cross-examining (and did cross-examine *if it be the case*) the said witness, L.K., upon his said examination before me under the said commission.

Dated at ———, this ——— day of ———, A.D. 19—.

E.F.,
Commissioner.

1695. STENOGRAPHER'S OATH.

In the matter of the King v. C.D. you swear that you shall truly and faithfully report the evidence to be given in this case; so help you God.

1696. AFFIDAVIT OF STENOGRAPHER.

Province of Ontario.
County of ———.

The King v. C.D.

I, E.F., of the ——— of ———, County of ——— (*occupation*), make oath and say (or do solemnly affirm):

1. That I am the stenographer appointed by G. H., one of His Majesty's justices of the peace in and for the County of ———, to report the evidence in this case.

2. That the transcript of evidence hereto annexed signed by the said G.H., as such justice of the peace, is a true report of the evidence taken in this case before the said G.H., and taken down by me as such stenographer as aforesaid.

1697. ORDER POSTPONING CAPITAL SENTENCE.

IN THE HIGH COURT OF JUSTICE.

The King against ———.

———day, the ——— day of ———, 19—.

I, the Honourable ———, one of the Justices of the High Court of Justice for Ontario, pursuant to section 1063 of the Criminal Code, chapter 146, of the Revised Statutes of Canada, do hereby order and direct that the execution of the capital sentence of death pronounced upon the above named ——— and directed to be carried out on the ——— day of ———, 19—, be postponed until the ——— day of ———, 19—, and the said prisoner be remanded into custody until that date, and that the sentence of death be then duly carried out.

Judge High Court of Justice.

CHAPTER LXIX.

EXTRADITION.

Extradition Act. R.S.C. 1906, Ch. 155. Fugitive Offenders Act. R.S.C. 1906, Ch. 154.

1698. WARRANT OF APPREHENSION.

Of person to be extradited from Canada.

———;

To Wit:

To all and each of the constables of ———.

Whereas it has been shown to the undersigned, a judge under the Extradition Act, that ——— late of ——— is accused (*or* convicted) of the crime of ——— within the jurisdiction of ———.

This is therefore to command you, in His Majesty's name forthwith to apprehend the said ——— and to bring him before me, or some other judge under the said Act, to be further dealt with according to law; for which this shall be your warrant.

Given under my hand and seal at ——— this ——— day of ——— A.D.

1699. WARRANT OF COMMITTAL.

———;

To Wit:

To ——— one of the constables of ——— and to the keeper of the ——— at ———.

Be it remembered that on this ——— day of ——— in the year ——— at ——— is brought before me ———, a judge under the

Extradition Act ———, who has been apprehended under the said Act, to be dealt with according to law; and for as much as I have determined that he should be surrendered in pursuance of the said Act, on the ground of his being accused (*or* convicted) of the crime of ——— within the jurisdiction of ———.

This is therefore to command you the said constable, in His Majesty's name, forthwith to convey and deliver the said ——— into the custody of the keeper of the ——— at ——— and you, the said keeper to receive the said ——— into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Act, for which this shall be your warrant.

Given under my hand and seal at ——— this ——— day of ——— A.D.

1700. ORDER OF MINISTER OF JUSTICE FOR SURRENDER.

To the keeper of the ——— at ——— and to ———.

Whereas ——— late of ——— accused (*or* convicted) of the crime of ——— within the jurisdiction of ——— was delivered into the custody of you, the keeper of the ——— at ——— by warrant dated ——— pursuant to the Extradition Act.

Now I do hereby, in pursuance of the said Act, order you the said keeper, to deliver the said ——— into the custody of the said ———; and I command you, the said ——— to receive the said ——— into your custody, and to convey him within the jurisdiction of the said ——— and there place him in the custody of any person or persons (*or* of ———) appointed by the said ——— to receive him; for which this shall be your warrant.

Given under the hand and seal of the undersigned Minister of Justice of Canada, this ——— day of ——— A.D.

1701. ORDER FOR LEAVE TO APPLY FOR HABEAS CORPUS.

IN THE HIGH COURT OF JUSTICE.

Hon. Mr. Justice ——— } ——— the ——— day of ——— 19—.
In Chambers. }

In the matter of the Extradition Act and in the matter of A.B.

Upon the application of the above named A.B. upon reading the affidavit of the applicant ——— and upon hearing counsel for the applicant.

1. It is ordered that said A.B. have leave to move for a writ of Habeas Corpus directed to the Keeper of the Common Gaol of the County of ——— on ——— the ——— day of ———instant before the presiding Judge in Chambers at Osgoode Hall, Toronto, at the hour of eleven o'clock in the forenoon.

2. It is further ordered that a copy of this order be forthwith served upon the Hon. The Attorney-General for the Province of Ontario, ———, representing the Secretary of State of the United States of America and His Honour ——— Extradition Commissioner.

1702. ORDER QUASHING HABEAS CORPUS

On application for discharge.

IN THE HIGH COURT OF JUSTICE.

The Honourable Mr. Justice ——— In Chambers. } ——— the ——— day of ——— 19—.

In the matter of the Extradition Act; and in the matter of A.B.

Upon the application of A.B. for an order for his discharge from the custody of the Sheriff of the County of ———, upon hearing read the writ of habeas corpus granted herein and the warrant of commitment attached thereto, and upon hearing what was alleged by counsel for the said A.B. and for the County of ——— in the State of ———.

1. It is ordered that the said writ of habeas corpus be and the same is hereby quashed and that the said A.B. be remitted to the custody of the said Sheriff to hold under the above mentioned warrant of commitment.

2. It is further ordered that the said A.B. do forthwith after taxation pay to ———, counsel for the County of ———, State of ———, the costs of and incidental to the said writ of Habeas Corpus and the proceedings thereunder.

1703. INFORMATION FOR EXTRADITION TO CANADA.

Dominion of Canada, Province of ———, County of ———, City of ———, To Wit: } The information and complaint of ——— of the City of ———in the County of ——— in the Dominion of ——— in the Dominion of Canada ——— taken on oath before me ———, Esquire, Police Magistrate in and for the said City, the ——— day of ——— in the year of our Lord one thousand nine hundred and ———.

The said informant, upon oath saith he is informed and believes that ——— and ——— in the months of ——— and ——— in the year of our Lord one thousand nine hundred and ———, at the City of ———, in the County of ———, did contrary to law conspire with each other and between themselves by deceit, falsehood and other fraudulent means to defraud several persons, firms and corporations to wit: ———,

contrary to the form of the Statute, in such case made and provided.

Complainant prays that a warrant may issue, and justice be done in the premises.

Sworn before me on the day and year above mentioned.

1704. **WARRANT.**

Dominion of Canada.
Province of ———,
County of ———,
City of ———.
To wit:

To the Chief Constable and other police officers of the said City of ———, and to any constable in and for the said County of ———, and to the Keeper of the Common Jail of the said County of ——— and City of ———.

Whereas———, of the city aforesaid, have this day been charged upon oath before the undersigned, ———, Esquire, Police Magistrate in and for the said city, for that the said ———, in the months of ——— and ———, in the year of our Lord one thousand nine hundred and ———, at the City of ———, in the County of ———, did unlawfully conspire between themselves to defraud ——— and others.

These are therefore to command you, in His Majesty's name, forthwith to apprehend the said ——— and ——— and to bring them before me or some other justice of the peace in and for the said city, to answer unto the said charge, and to be further dealt with according to law.

Given under my hand and seal this ——— day of ———, 19—, at the City of ——— aforesaid.

[SEAL.]
Police Magistrate.

1705. **EVIDENCE.**

Dominion of Canada,
Province of ———,
County of ———,
City of ———.
To wit:

In the matter of the application under the Fugitive Offenders' Act for the return of ———, ———, and ———, on the charge of unlawfully conspiring to defraud.

Evidence of witnesses taken in the above matter before ———, Esquire, Police Magistrate in and for the City of ———, at the Police Court in the said city, on the ——— day of ———, 19—.

The evidence was taken in shorthand and transcribed into longhand by ———, he having been first duly sworn by the said magistrate.

Present, Mr. ———, counsel for the Crown.

A.B., sworn and examined, &c.

1706. CERTIFICATE OF PROCEEDINGS.

Dominion of Canada,
Province of ———,
County of ———,
City of ———.
To wit:

In the matter of the application under the Fugitive Offenders' Act for the return of ———, ———, and ———, on the charge of unlawfully conspiring to defraud.

I, ———, of the City of ———, in the Province of ———, Police Magistrate in and for the City of ———, do hereby certify as follows:

1. That I am Police Magistrate for the City of ———.

2. That the paper writings hereto attached are and contain a complete and correct copy of the information, warrant, evidence, exhibits (numbered —to—, inclusive), and other proceedings taken and had before me, sitting as such Police Magistrate of the City of ———, at the City of ———, in the County of —— -, in the Province of ———, on the ——— day of ———, in the year of our Lord one thousand nine hundred and ———.

All of which I certify under my hand and seal as such Police Magistrate.

Dated at ———, this ——— day of ———, A.D. 19—.

[SEAL.] Police Magistrate.

1707. AFFIDAVIT OF SHORTHAND REPORTER.

Dominion of Canada,
Province of ———,
County of ———,
City of ———.
To wit:

In the matter of the application under the Fugitive Offenders' Act for the return of ———, ———, and ———, on the charge of unlawfully conspiring to defraud.

I, ———, of the City of ———, in the County of ———, Official Shorthand Reporter, make oath and say:

1. That the depositions of ———, hereto annexed, witnesses called and examined in the above matter, were taken down by me in shorthand and transcribed into longhand, and the same was truly and correctly done.

2. That the said depositions were taken before ———, Esquire, Police Magistrate in and for the City of ———, on the ——— day of ——— and ——— day of ———, A.D. 19—.

3. That the copies of the information, warrant and exhibits (numbered — to —) are the true and correct copies of the original thereof produced before the said Magistrate on the taking of the said depositions.

1708. CERTIFICATE OF LIEUTENANT-GOVERNOR.

PROVINCE OF ONTARIO.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To all to whom these presents shall come greeting.

These are to certify that E.F., pursuant to the provisions of ———, Chapter ———, Section ———, was on the ——— day of ———, 19—, appointed to be and he still is Police Magistrate in and for the City of ———, and that the signature of such Police Magistrate certifying the genuineness of the annexed paper writings is the true and genuine signature of the said E.F. and of his proper handwriting, and that full faith and credence are due and ought to be given to such signature and act in all places.

In testimony whereof we have caused these our letters to be made patent and the Great Seal of our Province of Ontario to be hereunto affixed.

Witness His Honour ———, Lieutenant-Governor of our Province of ———, at our Government House, in our City of ———, in our said Province, this ——— day of ———, in the year of our Lord one thousand nine hundred and ———, and in the ——— year of our reign.

By comand.

Assistant Provincial Secretary.

1709. CERTIFICATE OF GOVERNOR-GENERAL.

His Excellency the Right Honourable Sir Albert Henry George, Earl Grey, Viscount Howick, Baron Grey of Howick, in the County of Northumberland, in the Peerage of the United Kingdom, and a Baronet; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, &c., &c., Governor-General and Commander-in-Chief of the Dominion of Canada.

To all to whom these presents shall come, greeting.

These are to certify that ———, His Honour, ———, whose name is ———, subscribed to the annexed document, is the Lieutenant-Governor of the Province of ———, Canada, and that full faith and credence are due and ought to be given to such signature and act in all places.

Given under my hand and seal-at-arms at Ottawa, this ——— day of ———, in the year of our Lord one thousand nine hundred and ———, and of His Majesty's reign the ———.

By command.

Acting Under Secretary of State.

1710. WARRANT OF EXTRADITION TO CANADA.

Whereas a warrant has been issued in that part of His Britannic Majestys Dominions called the Dominion of Canada, for the apprehension of ———, on a charge of stealing; and whereas the said ———, having been apprehended and brought before a magistrate at the ——— Police Court, in ———, in accordance with the pro-

visions of ———, was on the ——— day of ———, 19—, committed to ——— Prison, at ———, to await his return to the said part of His Majestys Dominions:

Now I, ———, in virtue of the powers vested in me by the aforesaid ——— Act, do hereby order that the said ——— be returned to the said Dominion of Canada.

And for this purpose I authorize you, Detective Sergeant ———, Toronto Police, and Sergeant ———, Metropolitan Police, to take him into custody and convey him to the said part of His Majestys Dominions, there and then to be dealt with in due course of law.

And for so doing this shall be your sufficient warrant.

Dated at ———, the ——— day of ———, 19—.

Home Secretary (*or as the case may be*).

INDEX.

Absconding Debtors Act, see **Fraudulent Debtors Arrest Act**, FORM NO.
affidavit for order of attachment 983, 984
notice of order 986
order attaching goods 985
Abstract of Title, see **Sale, Title,**
demand of 692
form of 693
notice to be endorsed on demand for 694
notice to be endorsed on objections to 696
notice to verify 697
objections to 695
Accident,
notice of 2, 3
Accord and Satisfaction,
defence of 204
Account, see **Injunction, Surrogate Court, Winding-Up Act,**
administration, of legacies 619
administration, of personal estate 618
administration, of rents and profits 620
administrator, of, on application to pass 1565
certificate of filing 622
certificate of default in filing 623
judgment for, in administration action 600
judgment for, against company 461
judgment for, against executor 457
judgment for, against partner 482
liquidator of, order passing 1227
notice of filing 621
notice of motion for 368, 369
order passing liquidator's 1227
order taking new account in mortgage action 665-667
receiver, of 809
statement of claim for 74
surcharge against accounting party 624
winding-up, order passing 1227

Accountant's Office, see **Payment into Court**, FORM NO.
certificate of accountant 711
certificate of payment of purchase money 682
certificate of payment into court 707
direction to bank 706, 709
discharge of mortgage by accountant 712
præcipe for certificate 710
præcipe for cheque 704
præcipe for direction to bank 705
receipt for depositor 708

Action,
authority of next friend to enter 8
notice of 1
proceedings before 1-8

Administration, see **References to Masters and Referees Surrogate Court**,
accounts, form of 618-620
accounts, affidavit verifying 617, 1564
accounts, on application to pass 1565
accounts, notice of filing 621
accounts, certificate of filing 622
accounts, certificate of default in filing 623
accounts, surcharge 624
advertisement for claimants 604
advertisement for creditors 603, 1558
advertisement for next of kin 630
affidavit as to claims 607
affidavit as to incumbrances 608
affidavit proving claims 611-614, 1559
affidavit proving accounts 617, 1564
affidavit that no claims received 615
affidavit for order of 596-598
affidavit of service of judgment in 586
appointment in master's office in 583
appointment to pass accounts 1563
certificate as to filing accounts 622, 623
conveyance of land sold in 629
indorsement on office copy of judgment 584, 585
judgment for 599, 600
judgment for, indorsement on office copy of 584, 585

Administration.—Continued. FORM NO.

judgment on further directions in action of 627
letters of, see SURROGATE COURT.
notice of claim in pursuance of advertisement 605
notice of filing accounts 621
notice of motion to be admitted as creditor 616
notice of motion to confirm report 592
notice of motion for judgment for 595
notice to creditor to prove claim 609
notice to creditor to produce documents 606
notice to creditor that cheques are ready 628
notice to creditor that claim allowed 610
notice to creditor contesting claim 1560
order for 601
order refusing 602
order confirming report 590, 593
order for distribution 591
order extending time for making report 594
passing accounts, see SURROGATE COURT.
report of master in action for 626
report of master order confirming 590, 593
report of master order extending time for 594
surcharge against accounting party 624
surcharge notice of 625
statement of claim for 75, 76
statement of defence 77

Administrator, see **Executors and Administrators**,

Administrator, Ad Litem,
notice of motion to appoint 361
order appointing 388, 1590

Admiralty, see **Exchequer Court of Canada**,

Admissions,
form of 277-280
notice to admit documents 275
notice to admit facts 278
notice of refusal to admit 276

Advertisement, see **Notice**,
affidavit proving publication of 675
affidavit verifying 671

Advertisement.—Continued. FORM NO.
bailiff's sale of goods, of 1052
claimants, for, (other than creditors) 604
claimants, for, under Quieting Titles Act 1112
creditors of deceased person 603, 1558
creditors of insolvent 999
creditors of insolvent company 1195
directions of master as to 670
distribution of fund in court, on application for 726
next of kin, for 630
Quieting Titles Act, under 1112
sale of assets, of, under Winding-Up Act 1184-1185
sale of lands, of, under order of court 674
sale of lands, of, under power in a mortgage 1079
scheme, of, see EXCHEQUER COURT 1354
Settled Estates Act, under 1122
Winding-Up Act, for sale of assets under 1184, 1185
Winding-Up Act, for creditors under 1195

Adverse Claim,
Quieting Titles Act, under 1113

Affidavit, see **Exchequer Court, Surrogate Court,**
general form of 309
general form of oaths and jurats 311, 325
absconding debtors, for attachment of goods of 983, 984
accounts, verifying 617
administration, as to claims 607, 615
administration, as to incumbrances 608
administration, for order of 596-598
advertisement, of publication of 675
advertisement, verifying 671
alimony, interim, for 418, 419
arrest, for order of 987, 988
attachment of debts, for order of 573
attachment of goods, for order of 983, 984
auctioneer, of fitness of 672
auctioneer, of, as to result of sale 677
bond, of execution of 869, 991
certificate of non-payment, verifying 647
commission, for order for 266

Affidavit.—Continued. FORM NO.
consent, verifying 794
claim, proving 611-614
claim, as to, received 607, 615
creditor, proving claim in master's office 611-614
creditor, proving claim against insolvent 1000
creditor, proving claim in sheriff's office 1006
disbursements, of 520, 521
Devolution of Estates Act, of widow 1026
Devolution of Estates Act, of legal representative 1027
Devolution of Estates Act, of publication of notice to creditors 1028
examination *de bene esse*, for 264
execution, of 330
execution of bond, of 869, 991
execution of caution, of 1022
fitness of auctioneer, of 672
fitness of receiver, of 805
fitness of trustee, of 792
fixing reserved bid, for 673
garnishee order, for 573
guardian, on motion to appoint 728, 731
infant, on motion to appoint guardian 728, 731
infant, on motion to appoint new guardian 735
infant, on motion to remove guardian 737
infant, on motion for maintenance of 752
immediate judgment, for 408
injunction, for order to commit for breach of 925
interim alimony for 418, 419
interpleader, for order of, by defendant 929
interpleader, for order of, by sheriff 930
judgment, for immediate 408
judgment, of service of 586
jury notice, on motion to strike out 427
justification of sureties, of, on appeal bond 850, 870
justification of sureties, of, on recognizance 964, 973
leave to defend, for 51
lunacy, for declaration of 767
lunacy, on motion for guardian 776-780

Affidavit.—Continued. FORM NO.
mandamus, for 946-950
Mechanics and Wage Earners Lien Act, verifying claim for lien 1090, 1092
municipal election, to set aside 970
non-appearance, of 439
non-payment of money found due by report 589
non-payment of mortgage 637-639
non-payment by purchaser 331
notice of motion, of service of 327, 971
Overholding Tenants Act, of service of demand of possession 1066
Overholding Tenants Act, of service of demand, for appointment 1067
Overholding Tenants Act, demand, of service of appointment 1070
payment out of court, for 719-725
payment out of court, of trust funds 786
payment of sheriff's fees 440
production of documents, of 223
production of documents, of, by corporation 224
production of documents, of, special clauses 225-234
publication of notice to creditors, of 1028
publication of advertisement, of 675
quashing by-law, on motion for 962
Quieting Titles Act, in support of petition under 1103
Quieting Titles Act, proving possession 1105
receiver, of fitness of 805
receiver, verifying accounts of 806
replevin, for order of 1012
reserved bid, for fixing 673
service, of 326
service, of, by mailing 329
service of appointment, of 1070
service of claim, of 1008
service of demand of possession, of 1066
service of judgment or order, of 586
service of notice in lieu of writ, of 30, 32
service of notice of motion, of 327, 971

Affidavit.—Continued. FORM NO.
service of subpœna, of ... 328
service of writ of summons ... 18, 23, 26
service out of jurisdiction, for order for ... 28
service, substitutional, for order for ... 19, 20
stop order, for ... 715
subpœna, of service of ... 328
third party notice, for leave to serve ... 54
trial, to change place of ... 432, 433
trial, to postpone ... 436
trustee, for leave to pay fund into court ... 781, 782
trustee, on motion by for advice ... 790
trustee, of eligibility of ... 792
trustee, verifying consent of ... 794
verifying accounts ... 617
verifying advertisement ... 671
verifying certificate ... 647
verifying consent ... 794
writ of summons, of service of ... 18-26
writ of summons, for order for renewal of ... 32

Agreement,
for compromise with contributories ... 1214

Alimony,
affidavit on motion for interim ... 418
affidavit for præcipe order ... 419
notice submitting to pay ... 420
notice accepting defendants' proposal ... 421
notice of motion for ... 417
order for ... 422
order suspending payment of ... 424
order for sale of lands to realize arrears of ... 423
statement of claim for ... 78

Amendment,
of writ, præcipe for ... 31
order for leave to make ... 379
notice of motion for ... 346

Appeal, see **Notice of Appeal,**
from award of arbitrators, notice of ... 1264
from Board of Railway Commissioners for Canada, order for leave to ... 1278, 1279

Appeal.—Continued. FORM NO.
from by-law under the Drainage Act, notice of 1299
from convictions 1670-1676
from engineer's report under the Drainage Act, notice of 1298
from local judge in Admiralty, notice of 1398
from Ontario Railway and Municipal Board, order for leave to 1296
To JUDGE IN CHAMBERS.
notice of, from officers in chambers 811
notice of, from taxing officer 812
order on, from taxing officer 813
To JUDGE IN COURT.
notice of, from report of master or referee 814
notice of, from taxing officer 815
notice of, from award of arbitrators 1264
notice of motion for leave to 816
order dismissing 818
order referring report back 819
order directing further evidence 820
præcipe to set down 817
To A DIVISIONAL COURT.
from County, Surrogate, or Division Courts,
notice of 821, 1100
certificate of county judge 822
certificate of judgment on 1428
order on 824, 1101
præcipe to set down 823
judgment on appeal 1428
from a judge in chambers or in court,
notice of 825
notice of motion on 826
notice of motion for leave to 827
order for leave to 828
order dismissing 829
order allowing, on terms 830
supplementary notice of motion on 826
from verdicts and judgments,
notice of 831
notice of, jury failing to agree 833

NO.	**Appeal.**—Continued.	FORM NO.
299	notice of motion for new trial	832
676	notice of motion by way of cross appeal	838
298	notice of motion to extend time	840
398	notice of motion to stay proceedings	839
	order allowing	835
296	order allowing, in part	837
	order dismissing	836
811	order varying judgment	834
812	To Court of Appeal	
813	bond on	849
	bond on, notice of filing	851
814	bond on, affidavit of justification	850
815	bond on, order allowing	853
264	draft case for	857
816	certificate of judgment dismissing	835
818	consent to	845
819	judgment dismissing	865
820	notice of	841, 842
817	notice of motion for leave to	843
	notice of filing bond	851
	notice of payment into court as security for costs	852
100	notice of argument of	864
822	order for leave to appeal, direct	844
428	order for leave to appeal, undertaking as to costs	846
101	order for leave to appeal, important questions of law	847
823	order for leave to appeal, without security	848
428	order allowing bond	853
	order consolidating appeals	853
825	order as to printing appeal books	855
826	order dispensing with printing of evidence	854
827	order extending time for setting down	856
828	order allowing appeal and directing reference	866
829	præcipe to set down	863
830	reasons for appeal	858, 860, 861
826	reasons against appeal	859, 862
	security for costs of, bond for	849
831	security for costs of, notice of filing bond	851
833	security for costs of, order allowing bond	853

Appeal.—Continued. FORM NO.
security for costs of, order dispensing with 848
security for costs of, notice of payment into court for 852
To Supreme Court of Canada
appointment of agent 874
bond for 868
bond for, affidavit of execution 869
bond for, affidavit of justification 870
certificate of security in court below 871
certificate of settlement of case 873
judgment allowing 877
judgment dismissing 878
notice of hearing 876
notice of appeal 867
order that money paid in be allowed as security 872
To Privy Council
bond on 879

Appeal from Convictions,
affidavit to let in depositions 1672
certificate of judgment on 1674
notice of 1669
notice giving grounds 1670
notice of abandonment of 1673
order on appeal to County Judge 1676
recognizance on 1671
summons on appeal to County Judge 1675

Appearance,
affidavit for leave to enter 51
affidavit of non-appearance 439
conditional 44
conditional, order to enter 43
County Court, disputing jurisdiction 1415
general form of 39
judgment in default of 438, 441, 442, 490
landlord, by 47
limiting defence 49
notice of 40, 42, 48
notice of, disputing amount claimed 45

		FORM NO.
	Appearance.—Continued.	
848	order for leave to enter	52
852	petition of right, to	1130
	præcipe for search of	53
874	third party notice, to	50
868	**Appointment,**	
869	agent, of, in Supreme Court of Canada	874
870	allowance o^{e} bond, for	996
871	assignor, for examination of	1002
873	arbitrator, by	1247
877	arbitrator, of	1239-1243
878	examination of assignor, for	1002
876	examination of party for discovery, for	249
867	examination of judgment debtor, for	569, 570
872	examination, to allow costs of	523
	master's office, in	583, 640
879	receiver, of	797
	revise costs, to	525
	settle judgment, to	504
1672	tax costs, to	519, 526, 527
1674		
1669	**Appraisement,**	
1670	of goods distrained	1050
1673	**Arbitration,**	
1676	affidavit of execution of submission	1235
1671	affidavit of execution of award	1260
1675	affirmation to be administered by arbitrator	1249
	appointment of an arbitrator in pursuance of submission	1239
	appointment of an arbitrator, notice of motion for	1245
51	appointment of a third arbitrator	1241, 1243
439	appointment of an umpire	1242
44	appointment by arbitrator of time and place of meeting	1247
43	appointment, request to concur in	1238
1415	award of one arbitrator	1257
39	award of two arbitrators, the third dissenting	1259
2, 490	award that partnership be dissolved	1258
47	award, affidavit of execution of	1260
49	award, notice of	1261
42, 48	award, notice of motion to enforce	1262
45	award, notice of motion to set aside	1263

Arbitration.—Continued. FORM NO.

award, notice of motion to extend time for 1255
award, notice of appeal from 1254
award, enlargement of time for making 1253, 1254
notice of revocation of arbitrators' authority 1237
notice to appoint arbitrator 1240
notice of motion to stay proceedings in action pending.. 1244
notice of motion to set aside award 1263
notice of motion to appoint arbitrator 1245
notice of motion to enlarge time for award 1255
notice of motion for leave to enforce award 1262
notice to arbitrators to proceed 1246
notice to produce documents 1250, 1251
notice by arbitrators of disagreement 1252
notice of award 1261
notice of appeal from award 1264
oath of witness in 1248
request to concur in appointment of arbitrator 1238
revocation of submission to 1236
special case for opinion of court 1256
submission to, of present differences 1230
submission to one arbitrator 1231
submission to three arbitrators 1232
submission by bond 1233
submission, after action brought 1234
submission, affidavit of execution of 1235
submission, revocation of 1236

Arrest, see **Fraudulent Debtors Arrest Act,**
affidavit for order of 987, 988
order for. 989

Assault and Battery,
statement of claim for 79

Assignment,
bail bond, of 993
bond, in replevin, of 1015

Assignments and Preferences Act,
advertisement for creditors under 999
affidavit proving claim under 1000
appointment for examination of assignor under 1002

	FORM NO.
Assignments and Preferences Act.—Continued.	
assignment under, notice of	998
examination of assignor under, appointment for	1002
notice of assignment under	998
notice of contestation of claim	1001
notice of motion for order authorizing creditor to proceed	1003
notice of motion to remove assignee	1004
Attachment of Debts, see **Garnishee Proceedings**,	
Attachment of Goods, see **Absconding Debtors Act**,	
Attachment of the Person, see **Contempt**,	
affidavit on motion for	557
affidavit on motion to discharge	564
affidavit on motion to commit for breach of injunction	925
notice of motion for	552, 554, 555
notice of motion to discharge from custody	561-563
order for	553, 556
order condoning contempt	565
præcipe for writ of	558
writ of	559
Attornment,	
notice to tenant to make	807
receiver, to	808
Auctioneer, see **Sale**,	
affidavit of fitness of	672
affidavit of, of result of sale	677
Authority,	
of next friend to enter action	8
Award, see **Arbitration**,	
affidavit of execution of	1260
arbitrators, of	1257-1259
notice of	1231
notice of appeal from	1264
Bail, see **Bond, Recognizance**,	
bond in Admiralty proceedings	1371
bond to sheriff on *ca. sa.*	551
bond to sheriff on arrest under order	990
bond, affidavit of execution of	991
bond, affidavit of justification of sureties in	992

Bail.—Continued. FORM NO.
bond, assignment of 993
commission to take 1372
notice of 1374
notice of objections to 1375
order admitting prisoner to, High Court 1677
order admitting prisoner to, Sessions 1678
recognizance of 1679
recognizance, affidavit of execution of 1680
warrant for release from custody after 1681

Bank, see **Winding-Up Act,**
order for winding up 1175, 1176

Bills and Notes,
statement of claim on 80
statement of defence to actions on 81, 82

Bond, see **Bail, Recognizance, Surrogate Court,**
administrator, of 1452, 1501
affidavit of execution of 869, 991
affidavit of justification of sureties in 850, 870
appeal to the Court of Appeal, on 849
appeal to the Supreme Court of Canada, on 868
appeal to the Privy Council, on 879
appointment for allowance of 996
arrest for debt, bail bond to sheriff, on 990
arrest for debt, to pay or surrender 994
assignment of 993, 1015
bail, in admiralty proceedings 1371
bail, to sheriff on arrest for debt 990
certificate of allowance of 997
committee of lunatic, of 771
guardian, of, appointed by the High Court 743
guardian, of, appointed by the Surrogate Court 1550
interpleader, of indemnity to sheriff by plaintiff 943
interpleader, of indemnity to sheriff by defendant 944
interpleader, for value of goods seized 942
liquidator, of 1169
lunatic, of committee of 771
notice of filing 995
notice of motion to disallow 365

Bond.—Continued. FORM NO.
receiver, of 804
replevin 1014
security for costs of action 38
security for costs of appeal, for 849, 868, 879
succession duty, for payment of 1489
Board of Railway Commissioners for Canada,
affidavit of service of application to 1268
appeal from, notice of 1277
application to (for farm crossing) 1265
application to (where no notice required) 1267
application to, affidavit of service of 1268
application to, endorsement on 1266
application to, special form 1272
application to, special form, answer to 1273
answer to application 1269
answer to application (special) 1273
answer to application, indorsement on 1270
answer to application, reply to 1271
notice of application for leave to appeal from 1277
order approving of deviation 1274
order approving of location of line 1276
order approving of plans, etc 1275
order for leave to appeal from 1278, 1279
reply to answer 1271
Breach of Covenant,
statement of claim for 150, 153, 167, 169
Breach of Promise of Marriage,
statement of claim for 83
statement of, defence to action for 84
Building Contract,
statement of claim under 85
statement of defence and counterclaim 86, 87
Calls, see **Winding Up Act,**
statement of claim for 93
Capias, see **Arrest, Fraudulent Debtors Arrest Act,**
bail bond to sheriff on 551
order for writ of 546
writ of 547-550

Carriers, FORM NO.
statement of claim against, for conversion 90, 91
statement of claim against, for deterioration 89
Case, see **Appeal, Reserved Case, Special Case,**
Caveat, see **Surrogate Court,**
form of 1567
notice of 1568
warning to 1569
Caution, see **Devolution of Estates Act,**
affidavit of execution of 1022
form of 1020
withdrawal of 1221
Certificate,
account, of filing 622
account, of default in filing 623
accountant, of 710
action, of pending 966
action, of dismissal of 967
allowance of bond 997
caution, of 1020
clerk, of, of exhibits at trial 294
County Court judge, of, on appeal 822
default in filing accounts, of 623
discharge of *lis pendens* 36
examination of infants, of 756
examination of witnesses, of 758
examination, of non-attendance of party 254
examination, of refusal to be sworn 255
exhibits, of, put in at trial 295
filing accounts, of 622
filing accounts, of default in 623
foreclosure, of order of 649
infant, of examination of 756
infant, of production of 755
judgment of Court of Appeal, of 865, 866
judgment on petition of right, of 1131
judgment after trial, of 505
judgment, of, for registration 512
judgment, verifying 508

Certificate.—Continued. FORM NO.
judgment, of return of ... 513
lis pendens, of ... 35
lunacy, of, under Dower Act ... 1031, 1032
non-payment, of, by bank manager ... 646
mechanics lien, of commencement of action for ... 1093
notary public, of office of ... 332
order, of, for registration ... 512
order of foreclosure, of, for registration ... 649
payment into court, of ... 707
payment of purchase money, of ... 682
pending action, of ... 966
production and age of infants, of ... 755
Provincial Secretary, of, as to court ... 511
receiver, of, of moneys raised by order of court ... 810
security for costs, of, having been given ... 871
settlement of draft case on appeal ... 873
sheriff, of, in lieu of return to writ ... 536
signature, verifying ... 509, 510
state of cause, of ... 297
taxation of costs, of ... 528
proof of claim, of ... 1009
Quieting Titles Act, of application under ... 1105
Quieting Titles Act, of counsel ... 1107
Quieting Titles Act, of registrar ... 1108
Quieting Titles Act, of sheriff ... 1109
Quieting Titles Act, of treasurer ... 1110
Quieting Titles Act, of title ... 1117
Winding-Up Act, of liquidator for examination ... 1189
Winding-Up Act, of master as to examination ... 1194

Certiorari, see **Habeas Corpus, Quashing Convictions,**
affidavit of defendant ... 1622, 1432
affidavit verifying proceedings ... 1621
affidavit of service of notice ... 1620
affidavit on motion to supersede ... 1637
County Court, to, affidavit for order for ... 1432
County Court, to, notice of motion for ... 1431
County Court, to, order of ... 1433, 1434
motion paper on application for *rule nisi* ... 1633

Certiorari.—Continued. FORM NO.
notice of motion to supersede 1636
notice of motion to remove conviction 1617, 1618
notice of motion for, to County Court 1431
notice to informant 1619
notice to informant, affidavit of service of 1620
notice of objection to 1634
order for writ of, to remove conviction 1626
order for to County Court 1433, 1434
order for, in aid of *habeas corpus* 1627, 1640
recognizance on application for 1623
recognizance, affidavit of execution of 1625
recognizance, affidavit of justification 1624
return to writ of 1630
return, schedule to 1631
rule absolute 1635
rule *nisi* 1632
writ of, general 1628
writ of, to remove conviction 1629
writ of, return to 1630
writ of, return to, schedule to 1631

Chambers, see **Appeal,**
notice of motion in 333
notice of appeal to judge in 811, 812
notice of appeal from judge in 825
order in 374

Changing Place of Trial, see **Trial,**
affidavit for 432, 433
notice of motion for 431
order for 434

Charity,
gifts to, judgment declaring void 503

Charter Party,
claim for detention under 92

Chattels,
judgment for recovery of 493
writ of delivery of 544-545

Chattel Mortgage,
judgment setting aside 459, 460

	FORM NO.
Citation, see **Surrogate Court,**	
Compensation, see **Purchaser, Sale,**	
order for, to purchaser	691
Claim, see **Pleadings, Statement of Claim, Indorsements,**	
Committe of Lunatic, see **Lunatic,**	
Commission,	
affidavit on motion for	266
appraisement and sale, of	1394
bail, to take	1372
form of	269, 1388
interrogatories, form of	271
interrogatories, answer to	272
letters rogatory for	274
letters rogatory, order for issue of	273
order for delivery of interrogatories	270
order for	267
return to	1389
Company, see **Corporation, Winding-Up Act,**	
claim for calls against shareholder	93
judgment for account and sale of assets of	461, 462
notice of motion to restrain defendants from acting as directors of	363
shares of, injunction respecting	903, 905
Compromise, see **Winding-Up Act,**	
Conditions of Sale,	
standing conditions of the court	676
Consent,	
adults interested, of, to sale of lands	662, 759
adverse claimant, of	1116
appeal to the Court of Appeal, to	845
dispensing with payment of purchase money into court, to	684
guardian, of, to act	729, 732
mortgagee, of, to sale of land	663
next friend, of, to enter suit	8, 740
trustees, of proposed	793
widow, of, to sell free from dower	661
Consolidation of Actions,	
notice of motion for	350, 351
order for	386

Contempt, see **Attachment**, FORM NO.
affidavit on motion for attachment 557
affidavit on motion for discharge 564
notice of motion to commit for 552, 555
notice of motion for attachment for 554
notice of motion to discharge 561-563
order of attachment for 553
order to commit for 556, 1422
order condoning 565
warrant of committal for 1423
writ of attachment for 559
Continuing Proceedings,
order for 387
Contributory, see Winding-Up Act,
Contributory Negligence,
defence of 208
Controverted Elections Acts,
affidavit for order for delivery of ballots 1149
affidavit on production 1159
appointment of solicitors 1139
application for leave to withdraw 1157
certificate of deposit in bank 1136
disclaimer 1138
judgment dismissing petition 1151
order, adding party 1144
order changing place of trial 1143
order postponing trial 1152
order for examination 1142
order for subpœna 1145
order for subpœna to Quebec 1148
order for production of ballots 1146
order for delivery of ballots 1149
order for payment out of deposit 1147
order for witnesses to attend 1155
notice to produce at trial 1153
notice of trial 1154
notice of application for leave to withdraw 1156
particulars of bribery, etc. 1140
petition, form of 1132, 1158

	FORM NO.
Controverted Elections Act.—Continued.	
petition, affidavit verifying	1133
petition, notice of presentation	1134
petition, notice of, to returning officer	1137
petition, certificate of receipt of	1135
subpœna *duces tecum*	1141
trial, notice of	1154
trial, notice to produce at	1153
trial, order for witnesses to attend	1155
trial, order changing place of	1143
trial, order postponing	1152
Controverted Municipal Elections,	
affidavit of relator	970
affidavit of service of notice of motion	971
affidavit of justification of surety	973
disclaimer before notice served	974
disclaimer after notice served	975
fiat authorizing service of notice	968
indorsement of verdict after trial	977
judgment voiding election	979
judgment for realtor	980
judgment for respondent	981
notice of motion to set aside election	969
notice of motion, affidavit of service of	971
notice of motion, fiat for	968
order for trial of issue	976
order for trial, indorsement of verdict on	977
order voiding election	978
recognizance for security	972
recognizance, affidavit of justification	973
writ of fieri facias for costs	982
Copyright, see **Injunction,**	
claim for infringement of	95, 96
defence to action for infringement	210
order restraining infringement	893-895
Costs, see **Security for Costs, Taxation of Costs,**	
indorsement of claim for	14
judgment for	443, 444, 445
set-off of, judgment allowing	496

Costs.—Continued. FORM NO.
security for, order for 37
security for, bond for 38
taxation of 515-528
writ of fieri facias for 533, 534

Corporation, see **Company,**
affidavit on production by 224
order on production by 222

Covenant, see **Breach of Covenant,**

Counter-Claim, see **Pleadings,**
building contract 87
form of defence and 71
judgment on 455

Conversion,
claim for 95

Conveyance, see **Deeds,**
assets, of, by liquidator 1188
land sold by the court, of 629
land, of, under Quieting Titles Act 1119

Convictions, see **Appeal from Convictions, Quashing Convictions,**

County Court, see **Appeal,**
appearance disputing jurisdiction 1415
appeal from, notice of 821
appeal from, certificate of judge of 822
appeal from, order on 824, 1428
appeal from, præcipe to set down 823
appeal from, order extending time for 1427
appeal from, order on 1428
certiorari to, notice of motion for 1431
certiorari to, affidavit on motion for 1432
certiorari to, order of 1433, 1434
committal for contempt, order for 1422
committal for contempt, warrant for 1423
consent to trial in 1411
expropriation proceedings in 1435-1443
judgment of, in High Court action 1414
mandamus to, order for 1430
notice of appeal from 821

	FORM NO.
County Court.—Continued.	
notice of motion for certiorari to	1431
order for trial of High Court action in	378, 1412
order for trial of action in High Court	1413
order transferring action to High Court	1416, 1417, 1419
order transferring action to another County Court	1418
order transferring action from High Court to County Court	1420
order transferring action from Division Court to County Court	1421
order changing place of trial	1424
order for committal for contempt	1422
order of reference	1425
order staying proceedings on appeal	1426
order extending time for appeal	1427
order on appeal from	1428
prohibition to, order for	1429
Court, see	
Admiralty.	
Appeal.	
Board of Railway Commissioners for Canada.	
County Court.	
Court of Appeal.	
Division Court.	
Divisional Court.	
Drainage Referee.	
Exchequer Court of Canada.	
General Sessions.	
Judgment.	
Notice of motion.	
Ontario Railway and Municipal Board.	
Order.	
Privy Council.	
Supreme Court of Canada.	
Surrogate Court.	
order of judge in	375
notice of appeal to judge in	814, 815
notice of appeal from judge in	825
notice of motion to judge in	334

Court of Appeal, see **Appeal**, FORM NO.
bond on appeal to 849
bond on appeal to, affidavit of execution of 330, 869
bond on appeal to, affidavit of justification 850
bond on appeal to, notice of filing 851
certificate of judgment of 865, 866
consent to appeal to 845
draft case for appeal to 857
judgment of 865, 866
notice of appeal to 841, 842
notice of motion for leave to appeal to 843
notice of filing bond on appeal to 851
notice of payment into court as security for costs 852
notice of argument of appeal to 864
order giving leave to appeal to 844-849
order dispensing with security for costs 848
order allowing bond on appeal to 853
order consolidating appeals to 853
order as to printing appeal books 854, 855
order extending time for setting down appeal to 856
order dismissing appeal to 865
order allowing appeal to 866
præcipe to set down appeal to 863
reasons of appeal to 858-861
reasons against appeal to 859, 862
taxation of costs in, appointment for 527

Creditor, see **Administration, Assignments and Preferences Act, Creditors' Relief Act, Fraud, Winding-Up Act,**
advertisement for 603, 1195
affidavit proving claim of, against company 1196
affidavit proving claim of, in master's office 611-614
claim to rank on insolvent estate 97
claim to set aside conveyance 99
claim to set aside judgment 98
notice of claim of 605
notice of motion to be admitted as 616
notice to, to produce documents 606
simple contract, claims and defences 100-103

Creditors Relief Act, FORM NO.

affidavit of claim 1006
affidavit of service of claim 1008
certificate of proof of claim 1009
entry by sheriff 1005
notice of claim 1007
notice of contestation of scheme of distribution..... 1010
order on contestation of claims 1011

Criminal Proceedings,

See Appeal from Convictions.
Bail.
Certiorari.
Extradition.
General Sessions.
Habeas Corpus.
Quashing Convictions.
Reserved Case.

Custody of Infant, see **Infant,**

notice of motion for 763
order for 764

Damages,

indorsement of claims for 15
judgment for, to be assessed 456
notice of particulars in mitigation of 291

De Bene Esse,

affidavit for examination 264
order for examination 265

Debenture Holders,

judgment for account and sale 461, 462

Debt,

attachment of, see GARNISHEE PROCEEDINGS.
claims for 100, 101
defences to actions in simple contract 102

Declaration, see **Statutory Declaration,**

Deed, see **Conveyance,**

of election under Devolution of Estates Act 1024, 1025

Defamation, see **Libel, Slander,**

pleadings in 120, 121

Defence, see **Statement of Defence, Leave to Defend,** FORM NO.
judgment in default of 438, 441, 442, 491, 492
to notice of claim under Drainage Act 1310
to notice of appeal under Drainage Act 1304
Delivery,
writ of, of chattels 544, 545
of bill of costs, order for 515
Demand,
of abstract of title 692
of copy of document 296
of particulars 414
of possession 5
of possession, by mortgage after foreclosure 650
of possession, by purchaser after sale 686, 688
of possession, by landlord 1038, 1064
of possession, affidavit of service of 1066
Depositions,
form of 253, 1694, 1705
Detinue,
claim in action of 104
defence to action of 209
Devolution of Estates Act,
affidavit of widow 1026
affidavit of legal representative 1027
affidavit of publication of notice to creditor 1028
caution, under 1020
caution, withdrawal of 1021
caution, affidavit of execution of 1022
deed of election 1024, 1025
notice of motion for order for sale of lands under 1023
sale of land under, notice of motion for 1023
Directions, see **Further Directions, Procedure Order,**
bank, to, to receive money 706, 709
master, of, for advertising 670
order of, by drainage referee 1303
order of, by drainage referee, notice of motion for 1302
order of, in third party proceedings 59, 60, 61
order of, order setting aside 62
production of documents, for 587

	FORM NO.
Disbursements,	
affidavit of	520, 521
Discovery, see **Examination of Parties and Witnesses, Production of Documents,**	
Discharge,	
of mortgage by accountant	712
of mechanics lien	1095
Disclaimer,	
controverted elections, in	974, 975
Distress, see **Landlord and Tenant,**	
claim for wrongful	202
claim for excessive	203
warrant of	1040-1042
notice of	1043-1045
Division Court,	
affidavit for mandamus to	946
affidavit for prohibition to	955
notice of appeal from	821
notice of motion for mandamus to	945
notice of motion for prohibition to	954
order of mandamus to	947
order of prohibition to	956
order on appeal from	823
Divisional Court, see **Appeal,**	
appeal from County, Surrogate, or Division Court, notice of appeal to	821
appeal from County, Surrogate, or Division Court, certificate of county judge	822
appeal from County, Surrogate, or Division Court, order on	824
appeal from judge in chambers or in court, notice of appeal to	825
appeal from judge in chambers or in court, notice of motion	826
appeal from judge at trial, notice of appeal to	831-833
appeal from judge at trial, order on	834-837
interpleader, order setting aside verdict in	938
leave to appeal to, notice of motion for	827

Divisional Court.—Continued. FORM NO.
leave to appeal to, order on 828
order on appeal to 824, 829, 830
notice of motion by way of cross appeal to 838
notice of motion to stay proceedings 839
notice of motion to extend time for appealing 840
notice of appeal to 821, 825, 831-833
præcipe to set down appeal to 823
supplementary notice of motion to 826

Divorce Proceedings,
affidavit of publication of notice 1601
application for 1602
application, notice of 1600
application, notice of affidavit of publication of 1601
declaration of service of petition, etc. 1605
declaration verifying petition 1603
form of enactment dissolving marriage 1606
information endorsed on petition 1604
notice of application 1600
notice of application, affidavit of publication of 1601
petition for divorce 1602
petition, information to be endorsed on 1604
petition, declaration of service of 1605

Documents, see **Production and Inspection,**
objections to production of 225-234

Dower, see **Dower Act, Devolution of Estates Act,**
consent of widow to sale free from 661
election, deed of 1024, 1025
judgment of seisin for 463
judgment for—annuity 464
judgment for arrears of 465
order to sell land free from 1029, 1030
table for ascertaining value of 703

Dower Act,
certificate as to lunacy under 1031, 1032
order to sell land free from dower 1029, 1030

Drainage, see **Drainage Referee,**
claim in action for non-repair of drain 105

	FORM NO.
Drainage Referee,	
affidavit of service of notice of claim	1309
defence to notice of claim	1310
defence to notice of appeal	1304
notice of appeal from by-law	1299
notice of appeal from report	1298, 1300
notice of motion for procedure order	1302
notice of motion to set aside report	1305
notice of claim for damages	1307
notice of claim, defence to	1310
notice of claim, endorsement on	1308
notice of claim, affidavit of service of	1309
notice of hearing	1311
objections and defences to notice of appeal	1304
order referring action to	1301
order, procedure	1303
order to amend report	1306
order for judgment	1312
Easement,	
claim for obstruction of lights	107
defence in action for	108
judgment for	466
Election, see **Controverted Elections Act,**	
notice of, that defendant conduct sale	669
deed of, under Devolution of Estates Act	1024-1025
guardian, of, by minors	1555
Endorsement, see **Indorsement,**	
Equitable Relief,	
indorsement of claims for	16
Evidence, see **Admissions, Affidavits, Examination of Parties, Production of Documents,**	
notice of intention to give, in special matters	288-291
Examination of Parties and Witnesses,	
affidavit for examination *de bene esse*	264
affidavit for commission	266
appointment to examine for discovery	249
appointment for allowance of costs of	523
certificate of examiner as to non-attendance	254
certificate of examiner as to refusal to answer	255

Examination of Parties and Witnesses.—Continued. FORM NO.
commission to take evidence 269
depositions, commencement of 253
interrogatories 271
interrogatories, answers to 272
letter of request, order for 273
letters rogatory 274
notice of motion to dismiss action for refusal to attend .. 256
notice of motion to strike out defence for refusal to attend 258
notice of motion to commit for non-attendance 260
notice of motion for medical examination 262
notice to produce on examination 252
order for examination 257-259
order for committal for refusal 261
order for medical examination 263
order for examination *de bene esse* 265
order for commission 267
order for delivery of interrogatories 270
præcipe for commission 268
subpœna *ad test* 250
subpœna *duces tecum* 251

Examination of Judgment Debtor, see **Judgment Debtor, Execution,** see **writ,**
affidavit of 992, 330, 869
writs of 530-568

Executors and Administrators, see **Administration, Surrogate Court,**
accounts of 618-620, 1565
affidavit for payment out of Court to 723-725
judgment against 467-470
judgment dismissing action against 471
writ of fieri facias against 532

Exchequer Court of Canada,
PROCEEDINGS AGAINST THE CROWN.
certificate of judgment 1317
judgment at trial 1316
notice to file defence 1315
petition of right 1313
petition of right, indorsement on 1314

Exchequer Court of Canada.—Continued. FORM NO.

PROCEEDINGS BY THE CROWN.

affidavit for writ of immediate extent 1322
fiat for writ of immediate extent 1323
information, general form 1318
information of intrusion 1320
information, indorsement on 1321
statement of claim on bonds 1319
statement of claim, indorsement on 1321
writ of immediate extent 1324

PROCEEDINGS BETWEEN SUBJECT AND SUBJECT.

admission of defence 1328
advertisement to defendant 1329
advertisement of scheme 1354
affidavit on production of documents 1334
bond for security for costs 1331
certificate of filing scheme 1352
injunction, order refusing 1333
judgment in default of defence 1342-1343
judgment dismissing action 1344
notice to third party 1332
notice to admit documents 1337
notice to inspect documents 1336
notice to produce documents 1335
order for security for costs 1330
order refusing injunction 1333
order for issue of commission 1338
petition to confirm scheme 1351
pleadings, statement of claim 1325
pleadings, statement of defence 1326
pleadings, reply 1327
pleadings, petition to confirm scheme 1351
præcipe to set down special case 1341
præcipe for writ 1346
subpœna *ad test* 1339
subpœna *duces tecum* 1340
third party notice 1332
writ of *fieri facies* 1345
writ of delivery 1350

Exchequer Court of Canada.—Continued. FORM NO.
writ of possession 1349
writ of *scire facias* 1355
writ of *venditioni exponas* 1347
scheme, petition to confirm 1351
scheme, petition to confirm, notice of filing 1353
scheme, petition to confirm, certificate of filing 1352
scheme, advertisement of 1354

PROCEEDINGS IN ADMIRALTY.
action in rem, title of 1357
action in personam, title of 1358
action by the Crown, title of 1359
affidavit of service of writ 1365
affidavit to lead warrant 1368
affidavit of justification of sureties 1373
affidavit of value of ship 1407
affidavit of value of cargo 1410
affidavit of loss of property 1408
affidavit of freight due 1409
appeal from local judge, notice of 1398
appearance 1366
appointment to administer oaths 1385
bail bond 1371
bail bond, affidavit of justification 1373
bail, commission to take 1372
bail, notice of 1372
bail, notice of objection to 1375
caveat warrant 1402
caveat warrant, notice for 1401
caveat release 1404
caveat release, notice for 1403
certificate of service of warrant 1370
commission to take bail 1372
commission to examine witnesses 1388
commission, return to 1389
commission of appraisement and sale 1394
examination of witness, order for 1387
indorsement of claim 1364
interrogatories 1380

Exchequer Court of Canada.—Continued. FORM NO.

interrogatories, answers to 1381
notice of bail 1374
notice in lieu of writ 1363
notice of objection to bail 1375
notice of motion 1382
notice of motion on appeal 1398
notice of tender 1383
notice of accepting or rejecting tender 1384
notice of discontinuance 1396
notice to enter judgment for costs 1397
notice for caveat release 1403
notice for caveat warrant 1401
notice of trial 1391
order for examination of witnesses 1387
order for inspection of ship 1395
order for payment out of court 1400
order for payment of amount due 1406
pleadings, statement of claim 1377
pleadings, defence and counterclaim 1378
pleadings, reply 1379
receivable order for payment into Court 1399
release 1376
report of registrar 1392
report of registrar, schedule to 1393
warrant for arrest of ship 1369
warrant of affidavit to lead 1368
warrant of release 1376
warrant,, certificate of service 1370
writ of summons in rem 1360
writ of summons in personam 1361
writ of summons for service out of jurisdiction ... 1362
writ of summons, indorsement of claim 1364
writ of summons, notice in lieu of 1363

Expropriation,

affidavit for immediate possession 1439
certificate of surveyor 1437
notice of, of right of way 1435
notice of, of land for ballast pits, etc. 1436

Expropriation.—Continued. FORM NO.
notice of application for immediate possession 1438
Notice to encumbrancers 1443
order for publication of notice of payment into Court... 1442
requisition for direction for payment into Court 1440
warrant for possession 1441

Extradition,
certificate of Governor-General 1709
certificate of Lieutenant-Governor 1708
certificate of proceedings 1706
depositions of witnesses 1705
depositions, affidavit of short-hand reporter 1707
information for 1703
habeas corpus, order for leave to apply for 1701
habeas corpus, order quashing 1702
order for leave to apply for *habeas corpus* 1701
order quashing *habeas corpus* 1702
order of Minister of Justice for surrender 1700
warrant of apprehension 1698
warrant of committal 1699
warrant of extradition 1700, 1710

Exemplification, see **Surrogate Court,**
of judgment 507
of letters of administration 1475
of letters of probate 1518

Factories Act, see **Workmen's Compensation for Injuries Act,**
statement of claim under 200
statement of defence under 201

False Imprisonment,
statement of claim for 109

Fatal Accidents Act,
judgment in action under 475
statement of claim under 135
statement of defence under 136

Fiat,
for allowance of costs of examination 524
for proceedings in *Quo Warranto* 968

Fiere Facias, see **Writ.**

	FORM NO.
Fire,	
statement of claim for escape of	160
Forecolsure, see Redemption, Sale,	
affidavit of non-payment	636
affidavit of non-payment by mortgagee in possession	638
affidavit of non-payment by agent	639
appointment on reference as to incumbrances	640
certificate of bank manager of non-payment	646
certificate of bank manager, affidavit verifying	647
certificate of order of, for registration	649
demand of possession by mortgagee	650
final order of	648
defences to action for	111
judgment on præcipe for	632
judgment for, where infants concerned	633
judgment for, after trial	634
notice to incumbrancers	641
notice of motion to open	651
notice of motion to enlarge time to redeem	653
notice of credit	654
order opening	652
order appointing new day	656
order taking new account	656
order to take new account	657
order to re-convey	658
order for sale in lieu of foreclosure	666
report of master—subsequent incumbrancers	642
report of master—no claims proved	643
report of master—subsequent account	644
report of master—plaintiff redeemed	645
statement of claim for	110
Forfeiture,	
claim in action to enforce	150
notice to lessee before enforcing	7
order restraining, of shares	905
Fraud,	
claim for misrepresentation	115, 117
claim to set aside fraudulent judgment and conveyance	112

Fraud.—Continued. FORM NO.
claim on fraudulent prospectus 117
defences to same 113, 114
defences to action for misrepresentation 116
judgment setting aside chattel mortgage for 460
judgment setting aside conveyance for 472, 473
judgment in action on mortgage where mortgage induced to advance money by 478

Fraudulent Prospectus,
claim in action for misrepresentation 117

Fraudulent Debtors Arrest Act,
affidavit for order of arrest 987, 988
bail bond for security to sheriff under 990
bail bond, affidavit of execution of 991
bail bond, affidavit of justification of sureties 992
bail bond, assignment of 993
bond for payment or surrender 994
bond, notice of filing 995
bond, appointment for allowance of 996
bond, certificate of allowance of 997
order for arrest under 989

Further Directions, see **Directions,**
notice of motion for 362
judgment on 627
order on, confirming report and vesting lands 685

Garnishee Proceedings,
affidavit for garnishee order 573
issue in 580
notice of garnishee order for service out of jurisdiction. 577
order attaching debts 574
order calling on claimant to appear 575
order directing issue 579
order absolute 576
writ of *fieri facias* against garnishee 578

General Sessions,
affidavit for subpœna to witness out of the province 1686
affidavit for commission to take evidence out of Canada. 1688
affidavit for commission to examine witness who is dangerously ill 1691

NO.		FORM NO.
	General Sessions.—Continued.	
117	commission, notice of motion for	1689
114	commission, order for	1690
116	commission, affidavit for	1691
460	commission, depositions on	1694
473	commissions, oath of stenographer	1695
	commission, affidavit of stenographer	1696
478	notice of intention to take the evidence of a witness who is dangerously ill	1693
117	notice of motion for commission	1689
	order in, general form	1682
988	order for discharge of prisoner	1683
990	order to re-convey prisoner	1684
991	order to bring up prisoner to testify	1685
992	order for subpœna to witness out of the province	1687
993	order appointing commission	1690
994	order appointing a commissioner	1692
995	order postponing capital sentence	1697
996	**Guaranty,**	
997	claim in action on	118
989	defence in action on	119
	Guardian see **Infant, Lunatic, Surrogate Court,**	
	affidavit on motion to appoint	728, 731
362	affidavit on motion to appoint new	735
627	affidavit on motion to remove	737
685	bond of, appointed on motion	743
	consent of	729, 732
573	notice of motion to appoint	727, 730
580	notice of motion to remove	736
577	order appointing	733, 734
574	order appointing Trust Company	742
575	**Habeas Corpus,** see **Extradition,**	
579	certificate of gaoler	1646
576	certificate of gaoler, affidavit verifying	1647
578	notice of motion for writ of	1638
	notice of motion for discharge	1649
1686	order for leave to apply for	1701
1688	order quashing	1702
	order for writ of	1639
1691	order for writ of certiorari in aid of	1640

Habeas Corpus.—Continued. FORM NO.
order of certiorari in aid of 1641
order for writ of, and writ of certiorari in aid 1643
order for writ of, and order of certiorari in aid 1642
order discharging prisoner 1650
order on refusal to comply with writ 1651
order for writ of, *ad test* 1652
recognizance to gaoler 1648
return to writ of 1645
writ of 1644
writ of, order for 1639, 1642

Husband and Wife, see **Alimony, Divorce—Married Woman,**
notice of motion to decide dispute between as to title .. 371
order dispensing with concurrence of husband in conveyance 403

Immediate Judgment,
affidavit in support of motion for 408
final judgment (rule 603) 409
notice of motion for 407

Improvements,
lien for, judgment to enforce 474

Incumbrancers,
notice to 641
notice to, of expropriation 1443

Indemnity,
bond of, to sheriff 943, 944

Indorsement,
on defence to be served on third party 63
on office copy of judgment 395, 580, 585
on order adding parties 397, 398
on judgment to bind infant after coming of age 664
on notice of action 1, 11
on writ of summons, money claims 12
special indorsements 13
for costs 14
for damages 15
for equitable relief 16
character of parties 17
on petition 755, 766
of verdict or order for trial of issue 977

Infant, see **Guardian, Surrogate Court,** FORM NO.
affidavit on motion to appoint guardian 728
affidavit on motion to remove guardian 737
affidavit on motion to new guardian 735
affidavit on motion to assign guardian *ad litem* 731
affidavit for payment out of Court on attaining majority 719
affidavit proving maintenance 721
authority of next friend to enter action for 8, 740
bond of guardian appointed on motion 743
custody of, notice of motion for 763
custody of, order for 764
consent of guardian to act 729, 732
defence of infancy 205
judgment in mortgage action where infants interested 633, 660
maintenance, notice of motion for 748
maintenance, petition for, of lunatic infant 749
maintenance, order for 750
maintenance, notice of motion for increased 751
maintenance, affidavit on motion for 752
maintenance, increased, order for 753
mortgage of lands of, order allowing 762
notice to bind, endorsed on judgment 664
notice of motion to appoint guardian of 727
notice of motion to assign guardian *ad litem* 730
notice of motion to remove guardian 737
notice of motion to appoint new next friend 738
notice of motion to remove next friend 739
notice of motion by, to strike out his name as plaintiff.. 741
notice of motion for leave to take out of jurisdiction .. 744
notice of motion to commit husband for marrying ward of Court without leave 747
order appointing guardian of 733, 734
order appointing Trust Company guardian of estate of. 742
order for sale of lands of 760, 761
sale of lands of, petition for 754
sale of lands of, indorsement on petition for 755
sale of lands of, certificate of master of production of .. 756
sale of lands of, certificate of examination of witnesses in support of petition for 757

Infant.—Continued. FORM NO.
sale of lands of, certificate of examination of 758
sale of lands of, consent of adults interested to 759
sale of lands of, order for 760, 761
petition for leave to marry ward of Court 746
undertaking to return ward to jurisdiction 745

Information,
exchequer Court of Canada, in 1318-1320
extradition, for 1703

Infringement, see **Injunction,**
of copyright, claim for 95, 96
of patent, claim for 147
of trade mark, claim for 191
defences 210, 212
notice of motion to restrain 884, 888
order restraining 893-899

Injunction,
affidavit for order to commit for breach of 925
besetting or watching premises, order restraining 919
copyright, notice of motion to restrain infringement of 888
copyright, order restraing infringement of 893, 894
copyright, judgment restraining infringement of 895
carrying on business—firm name, order restraining 911
collecting assets of testator, order restraining 906
distraining, against, notice of motion for 881
dissolving, notice of motion for 887
erection of wall, against, notice of motion for 885
felling timber, against, notice of motion for 883
felling timber, against, order for 891
infringement of copyright, notice of motion restraining 888
infringement of copyright, order restraining 893, 894
infringement of copyright, judgment restraining 895
infringement of patent, order restraining 899
infringement of trade mark, order restraining 896, 897
interim 889
libel on trade, restraining 907
mandatory 923, 924
notice of motion for 880-888
notice of motion for formal parts 333, 334

Injunction.—Continued. FORM NO.
order 889-924
order continuing 890, 891-898
order dissolving 922
order refusing 921
perpetual 894, 895
nuisance, restraining 916, 918
opening letters, restraining 908
partner, notice of motion to restrain 882
partner, order restraining 901, 902
patent, order restraining infringement of 899
pollution of water, notice of motion to restrain 886
pollution of water, order to restrain 918
practising profession, against 909
publication, against 920
removing buildings, interim, against 889
removing hoarding, mandatory, for 924
sale, restraining 892, 900, 910
shares, forfeiture of, restraining 905
shares, issue of, restraining 903
trade mark, against infringement of 896, 897
transferring, promissory note, against 890
transferring stock, against 904
trespassing, against 913, 914
use of premises for trade, restraining 912
use of private road, restraining 914
water, diverting or diminishing, restraining 915
water, pollution of, against 886, 918

Insolvent, see **Assignments and Preferences Act**,
claim of creditor to rank on estate of 97

Inspection,
of documents, see Production and Inspection 221-248
of manufacturing process, order for 406

Interpleader,
affidavit on motion for, by defendant 929
affidavit on motion for, by sheriff 930
bond of indemnity by plaintiff 943
bond of indemnity by defendant 944
bond for value of goods in lieu of payment into Court.. 942

Interpleader.—Continued. FORM NO.
issue as to ownership of goods seized 936
issue as to ownership of stock 937
notice of claim by sheriff 926
notice of admission or dispute of title 927
notice of motion for order of 928
order of, directing sale and application of proceeds 931
order of, directing summary trial 932
order of, directing sale and trial of issue 933
order of, claimant not appearing 935
order of, substituting new claimant 934
order setting aside verdict at trial 938
order directing sheriff to sell 939
order directing sheriff to withdraw 941
order barring claimant 940

Interrogatories,
answer to 272, 1381
form of 271, 1380
order for delivery of 270

Inventory,
of goods distrained 1046, 1047

Issue,
controverted municipal election, order for trial of 976
garnishee proceedings, in 580
interpleader, in, as to ownership of goods seized 936
interpleader, in, as to ownership of stock 937
judgment on 449
judgment on motion after trial of 450

Judgment, see **Order, Appeal,**
account, for 457, 461
administration, for 599, 600
affidavit of service of 586
alimony, for 458
appointment to settle 504
certificate of, for registration 512
certificate of return of 513
certificate verifying 508
certificate verifying signature to 509, 510
certificate of Provincial Secretary as to 511

Judgment.—Continued. FORM NO.

certificate of officer, after trial as to 505
chattel mortgage, setting aside 459, 460
costs of plaintiff, for 443
costs of defendant, for 444
costs, for, after acceptance of money paid into Court, for 445
controverted municipal election, in 979-981
court of appeal, of 865, 866
counter-claim, on 455
county court, on appeal from 1428
damages to be assessed, for 456
default of appearance or defence, in 438
default of appearance or defence, interlocutory 441
default of appearance after assessment of damages 442
default of compliance with condition, on 446
default of payment into Court 447
debenture holders, for account 461
debenture holders, for sale 462
dismissing action, without prejudice to another action .. 453
dower, annuity, sale in default 464
dower, arrears of 465
dower, of seisin for 463
easement, for 466
executor or administrator, against 467-470
executor or administrator dismissing action against ... 471
exemplification of 507
final, under rule 603 409
foreclosure, for, on præcipe 632
foreclosure, for, where infants concerned 633
foreclosure, for, after trial 634
fraudulent conveyance, setting aside 472, 473
further directions, on 627
immediate 409
injunction, for perpetual 894, 895
interlocutory 441, 1017
lien for improvements, for 474
Lord Campbell's Act, under 475
married woman, against 476
mechanic's lien, establishing 1097

Judgment.—Continued. FORM NO.

misdescription of land 477
mortgage action, in, after trial 478
mortgage, vacating discharge of 497
motion for judgment, on 448
notice of motion to vary minutes of 506
office copy of, order for service of 394
office copy of, indorsement on 395, 584, 585
partition or sale, for 480
partnership, enforcing agreement of 481
partnership, for dissolving 482
partnership, setting aside deed of 483
partnership, directing accounts 484
partnership, appointing receiver 485
petition of right, on 1131
possession, for 487
receiver, appointing 485
recovery of land, for 486-492
recovery of chattels, for 493
redemption, for, on præcipe 659
redemption, for, after trial 636
rent, for 487
replevin, in 494
replevin, in, for return of goods 1018
replevin, in, interlocutory 1017
sale, for, on præcipe 659
sale, for, where infants are concerned 660
sale, for immediate 667
setting aside deed of land 495
set-off of costs, allowing 496
specific performance 497-499
succession duty, for 500
supreme court, of 877, 878
third party, against 64, 65
third party, dismissing claim against 67
third party, order for 65
trade-mark, restraining infringement of 501
trial of action, after 451
trial of action with a jury, after 452

Judgment.—Continued. FORM NO.
trial of issue, after 449-454
will, establishing 502
will, annulling charitable gifts in 503

Judgment, Debtor,
appointment to examine 569, 570
notice of motion to commit 571
order for attendance of, for re-examination 572

Justification,
affidavit of, of sureties 850, 870
affidavit of, of sureties on bail bond 992

Jury,
affidavit in support of motion to strike out 427
judgment after trial with 452
judgment after trial with, inconsistent answers 454
notice for 286
notice for, by alleged lunatic 770
notice of motion to strike out notice for 425, 426
order striking out notice for 428, 429
order referring motion to trial judge 430

Landlord and Tenant, see **Overholding Tenant,**
appearance by landlord 47
demand of possession 5, 1038
distress, warrant of 1040, 1041
distress, warrant of, growing crops 1042
distress, notice of 1043-1045
distress, inventory of goods 1046, 1047
distress, appraiser's oath 1048, 1049
distress, appraisement 1050
distress, advertisement of sale under 1052
distress, request not to remove goods 1054
distress, request to withdraw distress 1055
distress, request for appraisement 1057
distress, request to remove goods 1058
distress, request to extend time for replevy 1059
distress, request to sell before extended time 1060
distress, declaration by lodger 1063
forfeiture, notice to tenant, before enforcing 7

Landlord and Tenant.—Continued. FORM NO.
notice of application to decide dispute between 1033
notice to quit 6
notice to tenant to repair 1034, 1035
notice to tenant specifying breach of covenant 1036
notice to tenant to determine lease 1037
notice to tenant to pay rent to mortgagee 1039
notice to tenant claiming exemptions 1051
notice of distress 1043-1045
notice by tenant of set-off 1053
notice to sheriff of rent due 1061
notice to execution creditor of rent due 1062
notice to landlord of writ served on tenant 46
statement of claim—quiet enjoyment 153
statement of claim—recovery of possession 150, 151
statement of claim—rent 168-169
statement of claim—repair 167
statement of claim—wrongful distress 202, 203
statement of defence to action for possession 152

Leave to Appeal, see **Appeal,**
Board of Railway Commissioners, from, order for 1278, 1279
Court of Appeal, to, order for 844-848
notice of motion for 816, 827
Ontario Railway and Municipal Board from, order for. 1296
order for 828

Leave to Defend,
order for 380-382
order for further defence 383
notice of motion for 347

Letters,
administration of 1474
administration, of, with will annexed 1502
probate 1516, 1517
guardianship of 1557

Letters Rogatory,
form of 274
order for issue of 273

Libel, FORM NO.

claim in action of 120
defences in action against newspaper 121
intention to give evidence of apology, of 290
intention to give evidence in mitigation of damages, of . 291
notice to editor, of newspaper of 4
order restraining publication of 907

Lien, see **Mechanics and Wage Earner's Lien Act,**

claim in action to enforce 122
improvements for, judgment enforcing 474

Life Insurance,

claim in action on policy of 123
defence in action on policy of 124

Liquidator, see **Winding-Up Act,**

bond of 1169
order appointing 1166, 1171

Lis Pendens,

certificate of 35
certificate of discharge of 36

Lord Campbell's Act, see **Fatal Accidents Act,**

claim under 135-138
defence to action under 136
judgment in action under 475

Lunatic, see **Surrogate Court,**

affidavit proving maintenance of 722
affidavit for declaration of lunacy 767
affidavit on motion to appoint guardian of infant lunatic 776
affidavit on motion to substitute guardian of infant lunatic 778
affidavit on motion to assign guardian of infant lunatic 780
bond of committee of 771
notice by alleged, demanding a jury 770
notice of motion to appoint guardian of infant 775
notice of motion to substitute guardian of infant 777
notice of motion to assign guardian of infant 779
order declaring lunacy and appointing committee 768
order adopting lunacy report 773
order superseding lunacy order 774
petition to declare a person a lunatic 765

Lunatic.—Continued. FORM NO.
petition to appoint guardian and fix maintenances of infant 749
petition, indorsement on 766
report of master in lunacy matter 772
report, order adopting 773
warrant to produce a lunatic 769
certificate of lunacy under Dower Act 1031, 1032

Magistrate,
affidavit for mandamus to 950
affidavit for prohibition to 958
notice of motion for mandamus to 949
order of mandamus to 951
order of prohibition to 960

Maintenance, see **Infant, Lunatic,**
affidavit on motion for 752
notice of motion for 748
notice of motion for increased 751
order for 750
order for increased 753
petition for 749

Malicious Arrest,
statement of claim for 125
statement of defence in 126

Malicious Prosecution,
statement of claim for 127

Mandamus,
affidavit for, to Division Court 946
affidavit for, to magistrate 950
Division Court, to, affidavit for 946
Division Court, to, notice of motion for 945
Division Court, to, order of 947
County Court to, order for 1430
magistrate, to, notice of motion for 949
magistrate, to, affidavit for 950
magistrate, to, order of 951
municipal corporation, to, order of 948
notice of motion for 945, 949

Mandamus.—Continued. FORM NO.
order of 947, 948, 951, 1430
return to 952
return to, schedule 953
Married Women, see **Alimony, Husband and Wife—Divorce,**
judgment against separate property of 476
notice of motion to decide dispute between husband and wife as to title 371
order dispensing with concurrence of husband 403
writ of fieri facias against 531
Master and Servant,
statement of claim in action for wrongful dismissal 128
Master, see **Appeal, References to Masters,**
notice of appeal from 814
order on appeal from 818-820
Master's Office, see **Appeal, References to Masters and Referees, Administration, Foreclosure, Redemption, Sale, Infant, Lunatic,**
Mechanics and Wage Earner's Lien Act,
affidavit verifying claim 1090, 1092
certificate of commencement of action, for registration.. 1093
claim for lien, for work or materials 1087
claim for lien, for wages 1088
claim for lien, for wages by several claimants 1089
claim for lien, affidavit verifying 1090
discharge of lien 1095
judgment on claim under 1097
notice of trial of claim under 1096
notice of motion to vacate lien 1098
notice of appeal from order vacating lien 1100
order allowing appeal 1101
order vacating lien 1099
order for inspection of contract 1094
statement of claim under 1091
Misfeasance, see **Winding-Up Act,**
summons to officer of company for 1191
order declaring 1192, 1193
Misrepresentation,
claim in action for 115, 117
defence in action for 116

Mortgage, see **Foreclosure, Sale, Redemption,** FORM NO.
affidavit on motion for leave to pay surplus into court after sale under 782
judgment in action after trial 478
judgment vacating discharge of 479
order allowing, of infant's lands 762
order for discharge of 399
order to deliver up for suit 400

Motion, see **Notice of Motion, Order,**
for changing place of trial 431-434
for immediate judgment 407-409
for interim alimony 417-424
for particulars 410-416
for postponing trial 435-437
for injunction 880-925
for interpleader 923-944
for mandamus 945-953
for prohibition 954-960
for quashing by-law 961-967
for striking out jury notice 425-430

Motion Paper,
on application for prohibition 959
on application for rule nisi 1633

Municipal Act,
notice of accident under 2

Municipal Corporation, see **Quashing By-laws, Controverted Municipal Elections,**
claim in action against, for non-repair of drain 105
claim in action against, for non-repair of highway 129
claim in action against, for non-repair of bridge 131
controverted municipal elections, see 968-982
defence in action against, for non-repair of bridge 131
defence in action against, for non-repair of highway .. 130
mandamus to, order of 948
quashing by-law of, see **quashing by-laws** 961-967

Negligence, see **Railways,**
statement of claim of client against solicitor, for 140
statement of claim for negligent driving 141

Negligence.—Continued. FORM NO.
statement of claim by administratrix under statute and at common law for 135, 138
statement of defence to foregoing 136, 139
statement of defence—not guilty by statute 136, 161

Next Friend,
authority of, to enter action 8
consent to be added as 740
notice of motion to appoint 357
notice of motion to appoint, to lunatic 779
notice of motion to stay proceedings 353
notice of motion to substitute 738
notice of motion to remove 739

Next of Kin,
advertisement for 630

New Trial, see **Trial,**
notice of motion for 832

Not Guilty by Statute,
defence of 136, 161

Notice, see **Advertisement, Notice of Appeal, Notice of Motion,**
absconding debtors, of attachment of goods of 986
abstract of title, indorsed on 694
abstract of title, to verify 697
abstract of title, of objections to 696
acceptance of money paid into court, of 714
acceptance of interim alimony, of 421
accident, of 2, 3
action, of 1, 11
administration, of claim in 605
administration, to creditor to prove claim in 609
administration, to creditor that claim allowed 610
administration, to creditor that cheques ready 628
admit, to 275, 278
admit, of refusal to 276
alimony, submitting to pay interim 420
alimony, accepting proposal to pay 421
appeal, of argument of 864
appeal, of hearing of 876

Notice.—Continued. FORM NO.
appeal, see **Notice of Appeal**,
appearance, of 39, 41, 48
appointment, of 1069
assignment for benefit of creditors, of 998
attachment of goods, of 986
attorn to receiver, to 807
bond, of filing 995
claim, of 605, 1007
confession of claim, of 282
confession of defence, of 283
contestation of claim, of 1001
contestation of scheme 1010
creditor, to, to prove claim 609
creditor, to, that claim allowed 610
creditor, to, that cheques are ready 628
creditor, to, to produce documents 606
creditor, of claim of 605
creditor, of assignment for benefit of 998
creditor, of contestation of claim of 1001
creditor, execution, to, of rent due 1062
defence, special, of 287
discontinuance, of 281
dispute of claim, of 45
distress, of 1043-1045
editor, to, of libelous statements 4
election, of, that defendant conduct sale 669
exemptions, to tenant claiming 1051
filing accounts in master's office, of 621
filing affidavit on production, of 242
filing bond, of 851, 995
incumbrancers, to 641
infant, to bind 664
injuries, of 2, 3
inspection, to produce for 243
inspection, of objection to 245
inspection, to make 244
interim alimony, submitting to pay 420
interim alimony, accepting 421

	Notice.—Continued.	FORM NO.
NO.	interpleader, of claim by sheriff in	926
, 48	interpleader, of admission or dispute of title in	927
1069	intention to use letters probate as evidence of will, of	288
998	intention to prove instrument by copy	289
986	intention to give evidence of apology	290
807	intention to give evidence in mitigation	291
995	jury, for	286
1007	jury, for, by alleged lunatic	770
282	landlord and tenant, to decide dispute between	1033
283	landlord and tenant, to demand possession	1065
1001	landlord and tenant, to determine lease	5, 1037
1010	landlord and tenant, to quit	6
609	landlord and tenant, to repair	1034, 1035
610	landlord and tenant, of breach of covenant	1036
628	landlord and tenant, of distress	1043-1045
606	landlord and tenant, of set-off	1053
605	landlord and tenant, of writ served	46
998	lessee, to, before action	5, 6, 7
1001	libel, of, before action	4
1062	lunatic, for jury, by	770
287	objections to abstract, of	696
281	objections to title, of	700
45	objections to inspection, of	245
1045	order, endorsed on	784
4	order for service out of jurisdiction, of	577
669	overholding tenant, to deliver possession	1065
1051	overholding tenant, of appointment	1069
621	payment into court, of	713
242	payment into court, of, as security for costs	852
995	petition, endorsed on	755
641	possession, demanding	686, 1065
664	produce on examination, to	252
2, 3	produce for inspection, to	243
243	produce at trial	248
245	produce, to creditors to	606
244	purchaser, of delivering of possession to	687
420	purchaser, by, demanding possession	686
421	purchaser, to, for requisitions	698

Notice.—Continued. FORM NO.
purchaser, to, to complete sale 1085
quit, to 6
Quieting Titles Act, to persons interested 1111
receiver, by, to tenant to attorn 807
refusal to admit, of 273
renewal of writ, of 537
rent due, of 1061, 1062
repair, to 1034, 1035
sale under power in a mortgage, of 1073-1075
sale, to purchaser to complete 1085
sale, to tenant to pay rent to purchaser 1083, 1084
sale, to vendor to complete 1086
sale, of election that defendant conduct 669
service out of jurisdiction, of order for 577
service out of jurisdiction, of writ for 11
setting down special case, of 216
set-off, of, to rent due 1053
sheriff, to, of rent due 1062
special defence, of 287
statement of claim, in lieu of 69
tenancy, to determine 5, 1037
tenant, by, of set-off 1053
tenant, by, of writ served 46
tenant, to, of breach of covenant 1036
tenant, to, to pay rent 1083, 1084
tenant, to, to repair 1034, 1035
tenant, to, before action 567
tenant, to, of distress 1043-1045
tenant claiming exemptions, to 1051
third party, to 56
title, of objections to 700
trial, of 284, 285
writ for service out of jurisdiction, of 11

Notice of Accident,
under Municipal Act 2
under Workmen's Compensation Act 3

Notice of Action,
form of 1
indorsement on 1

Notice to Admit, see **Admissions**, FORM NO.
admissions in pursuance of 277, 279, 280
documents 275
facts 278
notice of refusal to admit in answer to 276
Notice of Appeal, see **Appeal**,
from award of arbitrators 1264
from by-law under the Drainage Act 1299
from convictions 1670
from engineer's report under the Drainage Act 1298, 1300
from County, Surrogate or Division Court 821
from judge in chambers or in court 825
from judgments and verdicts at trial, to Divisional Court 831-833
from judgments by way of cross appeal 838
from judgments to Court of Appeal 841, 842
from judgments to Supreme Court of Canada 867
from local judge in admiralty 1398
from master or referee 815
from officers in chambers 811
from order quashing conviction 1616
from taxing officer 812, 815
Notice of Confession,
of action 282
of defence 283
Notice of Discontinuance,
of action 281
Notice for Jury, see **Jury**,
form of 286, 770
notice of motion to set aside 425, 426
Notice of Motion, see **Appeal, Notice of Appeal**,
general forms of 333, 334
account, for 386, 369
administration, for 595
administrator *ad litem*, to appoint 361
alimony, for interim 417
amend to 346
appeal, for leave to 816, 827, 843

Notice of Motion.—Continued. FORM NO.
appeal, by way of cross appeal 838
appeal, to extend time for 840
appeal, supplementary to notice of 826
appoint administrator *ad litem*, to 361
appoint guardian of infant, to 727, 730
appoint guardian of lunatic, to 775-779
appoint next friend, to 357
appoint representative, to 358-330
arbitration, see **Arbitration,**
assignee, for removal of 1004
attachment, for leave to issue writ of 554
award, to enforce 1262
award, to set aside 1263
bond, to disallow 365
by-law, to quash 961
certiorari, for 1617, 1618
chambers, to 333
change place of trial, to 431
commit for contempt, to 552, 555
commit for failure to attend 240, 260
commit judgment debtor 571
confirm report, to 592
consolidate actions, to 350, 351
contempt, to commit for 552, 555
conviction, to quash 1607
court, to 334
creditor, to be admitted as 616
creditor, to authorize proceeding by 1003
cross-appeal, by way of 838
defence, to strike out 239, 258
directions, after appearance by third party, for 58
directions for further 362
directors, to restrain from acting 363
disallowed bond, to 365
dismiss action for want of prosecution, to 348
dismiss action as frivolous, to 349
dismiss action for failure to attend, to 256

NO.

Notice of Motion.—Continued. FORM NO.

- dismiss action for failure to produce, to 238
- dispense with representative, to 359
- dispense with payment into court, to 383
- documents, for better affidavit of 235
- documents, to compel production of 237, 345
- documents, to dismiss for failure to produce 238
- documents, for order to inspect 246
- election, to set aside municipal 969
- examination, for medical 262
- extend time, for appealing, to 840
- extend time, for redeeming, to 653
- foreclosure, to open 651
- further directions, for 362
- guardian, to appoint 727, 730
- guardian, to remove 736
- habeas corpus, for 1638
- habeas corpus, for discharge 1649
- husband and wife, to decide dispute between 371
- immediate judgment for 407
- infant, to appoint guardian of 727, 730
- infant, to remove guardian of 736
- infant, to appoint next friend of 357
- infant, to substitute next friend 738
- infant, to remove next friend 739
- infant, to strike out name of, as plaintiff 741
- infant, for leave to take out of jurisdiction 744
- infant, for maintenance of 748
- infant, for increased maintenance of 751
- infant, for custody of 763
- infant, to commit husband of 747
- injunction, for 880-888
- injunction, to dissolve 887
- interpleader, for order of 928
- judge in court, to 334
- judge at trial, to 335
- inspection of documents, for 246
- judgment, for immediate 407
- judgment, to vary annuities of 506

Notice of Motion.—Continued. FORM NO.
judgment, debtor, to commit 571
jury, to strike out notice for 425, 426
leave to appeal, for 816, 827, 843
leave to defend, for 347
leave to issue writ of attachment for 554
leave to set down special case 218
lunatic, to appoint guardian of 775, 777, 779
maintenance, for 748
maintenance, for increased 751
mechanics lien, to vacate 1098
medical examination for 262
minutes of judgment, to vary 506
municipal by-law, to quash 961
municipal election, to set aside 969
next friend, to appoint 357
next friend, to remove 739
next friend, to substitute 738
new trial, for 832
notice for jury, to strike out 425, 426
originating 336
particulars, for 410, 411
parties, to add or strike out 343
payment into court, to compel 680
payment into court, to dispense with 683
pleadings, to strike out 239, 258, 340-342
postpone trial, to 435
possession, for delivering of 689
production of documents, for better affidavit on 235
production of documents, to compel 237, 345
production of documents, to dismiss action for failure to make 238
purchaser, for compensation to 390
quash by-law, to 961
quash conviction, to 1607
redeem, to enlarge time to 653
report, to confirm 592
representative, to appoint 358-360
sale of land, for 1023

Notice of Motion.—Continued. FORM NO.
satisfaction piece, to set aside 366
set aside judgment by default 339
set aside jury notice 425, 426
set aside order allowing service 338
set aside proceedings for irregularity 344
set aside satisfaction piece 366
set aside writ 337
solicitor, to strike off rolls 372
special case, for leave to set down 218
stay proceedings 352-356, 839
stop order, to discharge 717
strike out pleadings, to 340-342
strike out defence, to 239, 258
strike out or add parties, to 343
strike out jury notice, to 425, 426
strike solicitor off rolls 372
supplementary to notice of appeal 826
third party, for directions 58
time to appeal, to extend 840
time to redeem, to extend 653
title, for inquiring as to 367
trial, to change place of 431
trial, to postpone 435
trial, new, for 832
Vendor and Purchaser Act, under 370
vesting order, for 364
writ of summons, to set aside 337
Notice to Produce, see **Production and Inspection**,
for inspection 243
on examination 252
at trial 248
Notice of Trial, see **Trial**,
general form 284
Toronto non-jury sittings 285
of mechanics lien action 1096
Nuisance, see **Injunction**,
order restraining 913-918
statement of claim for 142, 143
statement of defence to action for 213

Objections, FORM NO.
abstract of title, to 695
abstract of title, notice endorsed on 696
contributories, of 1208
inspection of documents, to, notice of 245
notice of appeal to Drainage Referee, to 1304
production of documents, to 225-234
taxation of costs, to 522
title, to 699
title, to, notice endorsed on 700

Obstruction of Light,
statement of claim for 107
statement of defence to action for 108

Official Referee, see **References,**

Ontario Railway and Municipal Board,
affidavit on production of documents 1286
application to, notice of 1280-1283
application to, reply to 1282, 1284
appeal from, order for leave to 1296
appointment for examination 1288
award of 1297
examination for discovery, order for 1287
examination for discovery, appointment for 1288
judgment of 1295
leave to appeal from, order for 1296
notice of application to 1280-1283
notice to produce before 1289
notice to admit documents 1290
notice of motion to 1293
order of 1292
order for possession 1294
order for examination 1287
order for production of documents 1285
order for leave to appeal from 1296
production of documents before, order for 1285
production of documents, affidavit on 1286
production of documents, notice for 1289
reply to application 1282, 1284
subpœna to witnesses 1291

Order, see **Judgment, Surrogate Court, Winding-Up Act,** FORM NO.
chambers, in, formal parts 374
court, in, formal parts 375
absconding debtor, for attachment of goods of 985
account in mortgage action, taking new 656, 657
account of administrator, passing 1566
adding party 396
adding party, indorsement on 397, 398
administration, for 601
administration, refusing 602
administrator *ad litem*, appointing 388
administrator, passing accounts of 1566
alimony, for interim 422
alimony, for sale of lands to realize 423
alimony, suspending payment of 424
amend, to 379
appeal from taxing officer, on 813
appeal from master's report, dismissing 818
appeal from master's report, referring back 819
appeal from master's report, directing further evidence 820
appeal from county court, allowing 824
appeal from Surrogate Court, allowing 824
appeal from Division Court, allowing 824
appeal from judge, for leave to 828
appeal from judge, dismissing 829
appeal from judge, allowing on terms 830
appeal from judgment at trial, varying 834
appeal from judgment at trial, allowing 835, 837
appeal from judgment at trial, dismissing 836
appeal to Court of Appeal, order for leave 846-848
appeal to Court of Appeal, allowing bond 853
appeal to Court of Appeal, consolidating 853
appeal to Court of Appeal, as to printing appeal books 854, 855
appeal to Court of Appeal, extending time 856
appeal to Court of Appeal, dismissing 865
appeal to Court of Appeal, allowing 866
appeal to Supreme Court of Canada, as to security 872
appear and defend, for leave to 52, 380-382

Order.—Continued. FORM NO.
appearance, for leave to enter conditional 43
arrest for debt, for 989
attachment of debts, for 574
attachment of goods, for 985
attachment of the person for contempt 261
call, for, see Winding-Up Act 1217-1221, 1640-1643
certiorari, for, see certiorari 1627, 1626
commission, for 267
commit for contempt, to 261, 1422
commit for non-production 241
confirming report 590, 593
contestation of claims, on 1011
continue proceedings, to 387
continue proceedings, allegations in 387
contract, rescinding 404
contributories, see Winding-Up Act.
controverted municipal election, for trial of issue 976
controverted municipal election, voiding 978
conviction, quashing 1615
Creditors Relief Act, on contestation of claims 1011
County Court, for trial in 1412
County Court, for trial of action in High Court 1413
County Court, transferring action to High Court, 1416, 1417
County Court, transferring action to another County.. 1419
County Court, changing place of trial in 1424
County Court, to commit for contempt in 1422
defence, allowing further 383
directions after appearance by third party, for 59-61
discharge of mortgage, for 399
discharge of order, for 401
dismissing action 385
dismissing motion 376
dower, for sale of lands free from 1029, 1030
Drainage Referee, of, directing procedure 1303
Drainage Referee, referring action to 1301
Drainage Referee, amending report 1306
Drainage Referee, for judgment 1312
examination of plaintiff, for, or in default dismissal of action 257

Order.—Continued. FORM NO.
examination, striking out defence for refusal to attend.. 261
examination, medical, for 263
examination, *de bene esse*, for 265
final order of foreclosure 648
final order of sale 668
foreclosure, final order of 648
foreclosure, taking new account 656, 657
foreclosure, appointing a new day 655, 656
foreclosure, for sale in lieu of 666
foreclosure, for reconveyance of mortgaged premises... 658
further directions, on 685
garnishee order 574-577
guardian, appointing 733, 734
habeas corpus, for writ of 1639
husband, dispensing with concurrence of 403
infant, appointing guardian of 733, 734
infant, appointing Trust Company guardian of 742
infant, for maintenance of 750
infant, for increased maintenance of 753
infant, for mortgage of lands of 762
infant, for sale of lands of 760, 761
infant, for custody of 764
injunction, interim, (see injunction) 889
injunction, continuing 890, 891, 898, 922
injunction, enquiry as to damages 921
injunction, mandatory 923, 924
injunction, discharging 922
injunction, perpetual 894, 895
inspection of documents, for 247
inspection of contract, for 1094
inspection of manufacturing process, for 406
interim alimony, for 422
interpleader, directing sale and application of proceeds 931
interpleader, directing summary trial 932
interpleader, directing sale and trial of issue 933
interpleader, directing sheriff to sell 939
interpleader, directing sheriff to withdraw 941
interpleader, barring claimant 940

Order.—Continued. FORM NO.
interpleader, claimant not appearing 935
interpleader, substituting new claimant 934
interpleader, setting aside verdict at trial in 938
interrogatories, for delivery of 270
jury notice, striking out 428, 429
jury notice, referring application to judge at trial 430
leave to appeal, for 828, 846-848
leave to appear and defend, for 52, 380-382
leave to serve third party notice, for 55
letter of request, for issue of 273
liquidator, appointing 1166, 1171
liquidator, discharging 1228, 1229
lunacy, appointing committee in, ... 768
lunacy, declaring 768
lunacy, adopting report in 773
lunacy, superseding order in 774
mandamus to Division Court, for 947
mandamus to magistrate, for 951
mandamus to municipal corporation, for 948
maintenance of infant 750, 753
Mechanic's Lien Act, for inspection of contract 1094
Mechanic's Lien Act, vacating lien 1099
Mechanic's Lien Act, allowing appeal 1101
medical examination, for 263
mortgage of infant's lands, allowing 762
mortgage, for leave to commence action on, after service of notice of sale 1078
mortgage, to deliver up for suit 400
Over-holding Tenants Act, dismissing application 1072
particulars, for 412, 413
partners, for names of 392
party, adding 396
passing accounts 1566
pleadings, to take off file 384
possession, for writ of 1071
postponing capital sentence 1697
production of documents, for 221, 222
production of documents, for better affidavit on 236

Order.—Continued. FORM NO.
production of documents, to commit for failure to make 241
purchaser, for compensation to 691
quashing by-law 965
quashing conviction 1615
Quieting Titles Act, to amend certificate under 1118
reserved case, after hearing 1665, 1666, 1668
receiver, appointing 798-803
reference, of 581, 582
renewal of writ, for 33
replevin, of 1013
replevin, in withernam 1016
report, confirming 590, 593
report, for distribution under 591
report, extending time for 594
representative, appointing 389, 390
sale of infant's lands, for 760, 761
sale of land to realize alimony, for 423
sale of land free from dower, for 1029, 1030
sale under *fifa* by private contract, for 405
sale in lieu of foreclosure, for 666
sale, final order of 668
sale, for re-sale on default 681
sale, for compensation to purchaser 691
security for costs, for 37
sentence, postponing capital 1697
service out of jurisdiction, for 29
service of writ, for substitutional 21, 22
service of writ, allowing 27
service, for special mode of 393
service, dispensing with 393
service, of office copy of judgment, for 394
solicitor, changing 377
solicitor calling on, to shew cause 391
solicitor, delivery and taxation of bill of 515-518
stop order 716
stop order, discharging 718
Surrogate Court, removing cause from 1599
taxation of solicitor's bill, for 515, 518

Order.—Continued. FORM NO.
third party, for leave to serve notice on 55
third party, setting aside notice to 62
third party, of directions 59-61
third party, for judgment against 65
trial of action in County Court, for 378, 1412
trial, changing place of 434
trial, changing place of, in County Court 1424
trial, postponing 437
trustee, allowing payment of trust fund into Court .. 783
trustee, removing 791
trustee, appointing new 791, 795
trustee, vesting personalty in 796
vesting lands 402, 685, 701
vesting assets of company 1186, 1187
vesting personalty 796
varying order, for 401
winding up company 1165, 1166
winding up bank 1175, 1176

Originating Notice of Motion,
general form of 336
to judge in chambers 788
to judge in court 789

Overholding Tenant,
affidavit for appointment 1067
appointment on application to recover possession 1068
appointment, notice to tenant of 1069
appointment, affidavit of service of 1070
claim against for double rent 144
claim against for double value 145
demand of possession 1064, 1065
demand of possession, affidavit of service of 1066
notice to tenant to deliver up possession 1065
notice to tenant of appointment 1069
order for writ of possession 1071
order dismissing application 1072

Partition or Sale,
judgment for 480

Particulars, FORM NO.
Controverted Election Acts, under 1140
demand for 414
form of, pursuant to demand 415
form of, pursuant to order 416
notice of, in mitigation of damages 291
notice of motion for 410, 411
order for 412
order for, further and better 413
Parties,
indorsement on writ of character of 17
notice of motion to strike out or add 343
order adding 396
order adding, indorsement on 397, 398
Passing Accounts, see **Surrogate Court, Winding-Up Act,**
Partnership, see **Injunction,**
claim for dissolution of 146
judgment enforcing agreement for 481
judgment directing dissolution and accounts 482
judgment setting aside agreement for 483
judgment directing accounts 484
judgment appointing receiver 485
order restraining partner 901, 902
order for names of partners 392
Patent, see **Injunction,**
claim in action for infringement 147
defence in action for infringement 211
order restraining infringement 899
Personal Representatives, see **Executors and Administrators,**
Payment into and out of Court, see **Trustee, Infant,**
affidavit for stop order 715
affidavit for payment out, on 719-725, 786
affidavit proving maintenance of infant 721
affidavit proving maintenance of lunatic 722
advertisement on application for distribution of fund in Court 726
certificate of accountant 711
certificate of payment in 707
direction to bank 706, 709

Payment into and out of Court.—Continued. FORM NO.
discharge of mortgage by accountant 712
notice of payment into Court 713, 784
notice of acceptance of sum paid in 714
notice of motion to discharge stop order 717
notice of motion for payment out 785
order stopping payment 716
order discharging stop order 718
order for payment out 787
præcipe for certificate 710
præcipe for cheque 704
præcipe for direction to bank 705
receipt for depositor 708
stop order 716
stop order, affidavit for 715
stop order, notice of motion to discharge 717
stop order, order discharging 718
trustee, order allowing payment, by 783
trustee, affidavit for leave to pay in, by 781, 782
Petition, see **Surrogate Court, Petition of Right,**
confirm scheme, to, ... 1351
controverted elections, in 1132, 1158
divorce for 1602
guardian, to appoint, and allow maintenance of lunatic infant 749
infant, to appoint guardian of, and allow maintenance. 749
infant, for sale of lands of 754
lunatic, to declare a person a 765
lunatic, to appoint guardian of infant 749
maintenance, to allow 749
notice endorsed on 755, 766
Quieting Titles Act, under 1102
right, of 1127
sale of infant's lands, for 754
scheme, to confirm 135
Settled Estates Act, under 1120
solicitor, to strike of rolls 373
ward of court, of, to marry 746
Winding-Up Act, under 1161

Petition of Right, FORM NO.

appearance to 1130
certificate of judgment on 1131
Exchequer Court, in 1313
judgment on 1131
notice to appear to 1129
petition, form of 1127
petition, indorsement on 1128

Pleadings, see **Exchequer Court of Canada, Surrogate Court, Statement of Claim, Statement of Defence, Counter Claim, Reply,**

general forms—claim, defence, counter-claim, reply .. 68-73
account 74
administration—creditor 75
administration—wilful default 76
administration—defences 77
alimony 78
assault and battery 79
bills and notes 80
bills and notes, defence 81
bills and notes, general defences 82
breach of covenant 153
breach of promise of marriage, claim 83
breach of promise of, defence 84
building contract, claim 85
building contract, defence 86
building contract, counter-claim 87
building contract, reply 88
carriers—deterioration of goods 89
carriers—conversion 90
carriers—conversion, defence 91
carriers—injuries to passenger 154
charter-party—detention 92
company—action for calls 93
company—fraudulent prospectus 117
conversion 94
copyright—infringement 95, 96
creditor—claiming to rank on insolvent estate 97
creditor—action to enforce judgment 98

Pleadings.—Continued. FORM NO.
creditor—action to set aside fraudulent conveyance ... 99
creditor—action to set aside fraudulent judgment 112
creditor—goods sold 100
creditor—money had and received 101
creditor—defences to simple contract debts 102
creditor—set-off and tender 103
detinue 104
drainage, action for non-repair 105
drainage, action for non-repair, defence 106
easement, obstruction of lights 107
easement, obstruction of lights, defence 108
false imprisonment 109
foreclosure or sale 110
foreclosure or sale, defences 111
fraud—action to set aside judgment 112
fraud—action to set aside judgment—defences 113, 114
fraud—misrepresentation 115
fraud—misrepresentation, defence 116
fraudulent prospectus 117
guaranty—claim and defence 118, 119
libel—claim and defences 120, 121
lien, action to enforce 122
life insurance—claim on policy and defence 123, 124
malicious arrest—claim and defence 125, 126
malicious prosecution 127
master and servant—wrongful dismissal 128
master and servant—injuries to workmen 155
Mechanics and Wage Earner's Lien Act, claim under .. 1091
municipal corporation—non-repair of highway 129, 130
municipal corporation—failure to maintain bridge. 131, 132
negligence—Fatal Accidents Act 135, 136
negligence—claim at common law and under statute. 137, 138
negligence—defence 139
negligence—client against solicitor 140
negligence—action by parent and child 129, 130
negligence—action by husband and wife 141
negligence—by railways 154, 155, 156, 158
nuisance 142, 143

NO.

Pleadings.—Continued. FORM NO.

99 overholding tenant—action for double rent 144
112 overholding tenant—action for double value 145
100 partnership—action for dissolution 146
101 patent—infringement 147
102 penning back water 148
103 possession 149, 150, 151, 152
104 quiet enjoyment—breach of covenant for 153
105 railways, action by passenger for injuries 154, 162
106 railways, injuries to workmen—claim and defence 158, 155, 156
107 railways, escape of fire 160, 161
108 railways, lost baggage 163
109 redemption 164, 165, 166
110 rent 168, 169
111 repair 167
112 replevin, claim and defence 170, 171, 172
114 returning officer 173
115 sale of goods 174-179
116 seduction 180
117 slander 181, 182, 183
119 specific performance 184-186
121 statute of frauds, defence of 187
122 statute of limitations, defence of 188
124 tax deed, claim to set aside 189
126 title—claim to set aside forged deed 190
127 trade mark, infringement 191
128 trespass to goods 192
155 trespass to lands, claim and defence 193, 194
1091 use and occupation 195
130 warehouseman, claim for storage 196
132 waste 197
136 will, construction of 198
, 138 workman, injuries to 155-158, 199-201
139 wrongful distress 202, 203
140 general defences,
, 130 accord and satisfaction 204
141 infancy 205
, 158 release or rescission 206
143 denials 207

Pleadings.—Continued. FORM NO.

general defences.—Continued.

contributory negligence 208
detinue 209
copyright 210
patent 211
trade mark 212
nuisance 213
slander 214

notice of motion to strike out 340, 341, 342
order to take pleadings off file 384

Postponing Trial, see **Trial,**

Possession, see **Expropriation,**

demand of 5, 686, 688
claim in action to recover 149
claim in action to recover, forfeiture 150
claim in action to recover, tenancy determined 151
defence and counter-claim to foregoing 152
judgment for recovery of 486-493
judgment for in action for sale or foreclosure 632, 659
judgment for immediate, in action for sale 667
notice of delivery of, after sale 687
notice of motion for delivery of, after sale 689
warrant for immediate 1441
writ of 542

Power of Attorney,

to take administration 1469

Praecipe,

to amend writ 31
for certificate of accountant 710
for cheque 704
for direction to bank 705
for commission to take evidence 268
to enter action for trial 293
to renew writ 34
to search appearance 53
to set down 292, 293
to set down special case 217

Praecipe.—Continued. FORM NO.
to set down appeal 817, 823, 863
for writ of *fieri facias* 529
for writ of *venditioni exponas* 538
for writ of possession 541
for writ of delivery 543
for writ of attachment 558
for writ of sequestration 567

Privy Council, see **Appeal**,
bond on appeal, to 879

Procedure Order, see **Directions**,
Drainage Referee, before 1303
Surrogate Court, in 1588

Production and Inspection of Documents,
affidavit on production 223
affidavit on production by officer of corporation 224
affidavit on production, special clauses 225-234
direction for 587
notice to creditors to produce documents 606
notice of motion for better affidavit 235
notice of motion to compel production 237, 345
notice of motion to dismiss for failure to produce 238
notice of motion to strike out defence for failure to produce 239
notice of motion to commit for failure to produce 240
notice of motion for order to inspect 246
notice of filing affidavit 242
notice of objection to give inspection 245
notice to produce for inspection 243
notice to produce on examination 252
notice to produce at trial 248
objections to 225-234
order to produce 221
order to produce by corporation 222
order for better affidavit 236
order to commit for non-production 241
order for inspection 247
subpœna *duces tecum* 251

Prohibition, FORM NO.
affidavit for, to Division Court 955
affidavit for, to magistrate 958
County Court, to, order for 1429
Division Court, to, affidavit for 955
Division Court, to, order for 956
magistrate to, affidavit for 958
magistrate to, order for 960
motion paper on application for 959
notice of motion for 954, 957
order for, to Division Court 956
order for, to magistrate 960
order for, to county court 1429

Proxy, see **Winding-Up Act,**
form of 1174

Purchaser, see **Sale,**
demand of possession by 686, 688
notice of motion for compensation to 690
notice of motion for possession by 389
notice of delivery of possession to 687
order for compensation to 691

Purchase Money, see **Sale,**

Quashing Convictions, see **Appeals from Convictions, Certiorari,**
affidavit of service of notice of motion 1610
affidavit of defendant showing grounds 1612
notice of appeal to Divisional Court 1616
notice of motion for 1607
notice of motion, endorsement on 1608, 1609
notice of motion, affidavit of service of 1610
notice of motion, return pursuant to 1611
motion paper on application for rule nisi 1633
order on quashing conviction 1615, 1635
recognizance on application for 1613
recognizance, affidavit of justification of sureties 1614
return pursuant to notice of motion 1611
rule nisi, for 1632
rule absolute, for 1635

Quashing Municipal By-laws, FORM NO.
affidavit on motion for 962
certificate of pending action 966
certificate of dismissal of action 967
notice of motion for 961
order for 965
recognizance for security for costs 963
recognizance, affidavit of justification of sureties 964
Quiet Enjoyment,
claim under covenant for 153
Quieting Titles Act,
advertisement for claimants 1112
adverse claim 1113
adverse claim, affidavit verifying 1114
affidavit in support of petition under 1103
affidavit, schedule of particulars to 1104
affidavit, proving possession 1105
affidavit as to crown debts 1115
affidavit verifying adverse claim 1114
certificate of application 1106
certificate of counsel 1107
certificate of registrar as to abstract 1108
certificate of sheriff as to executions 1109
certificate of treasurer as to taxes 1110
certificate of title 1117
certificate of title, order to amend 1118
consent by adverse claimant 1116
conveyance by court 1119
notice to persons apparently interested 1111
order to amend certificate of title 1118
petition under 1102
schedule of particulars to affidavit in support of petition 1104
Quo Warranto, see **Controverted Municipal Elections,**
Railways, see **Board of Railway Commissioners, Expropriation, Ontario Railway and Municipal Board,**
claim against in action for negligence, by passenger, 154, 162
claim against in action for negligence, by workman, 155, 158
claim against in action for negligence, by representative of deceased workman 135, 138

Railways.—Continued. FORM NO.
claim against, for escape of fire 160
claim against, for lost baggage 163
defences 136, 156, 159, 161

Reasons,
for appeal 858-862
against appeal 859-862

Receipt,
for depositor for money paid into court 708
discharge of mortgage by accountant 712
certificate of, of money paid into court 707, 711

Receiver,
account of 809
affidavit of fitness of proposed 805
affidavit verifying account of 806
appointment of, by master 797
appointment of, by judgment 485
attornment to 808
bond of 804
certificate of receipt of money borrowed by 810
interim, order appointing 799
judgment appointing, of partnership assets 485
order appointing, on giving security 798, 800
order appointing, before giving security 801
order appointing interim 799
order appointing receiver and manager 802
order continuing receiver and manager 803
notice to tenant to attorn to 807

Recognizance, see **Bond,**
quashing by-law, on motion for 963
quashing by-law, affidavit of justification of sureties .. 964
municipal election, on motion for setting aside 972
municipal election, affidavit of justification of sureties.. 973
quashing conviction, on motion for 1613
certiorari, on application for 1623
reserved case, on 1660
appeal from conviction, on 1671
bail, of 1679

Referee, see **Appeal, References to Masters and Referees,** FORM NO.
notice of appeal from 814, 815
order on appeal from 818-820

Redemption, see **Foreclosure,**
claim in action for 164, 166
defences to action for 165
judgment for, where infants concerned 633
judgment for, on præcipe 635
judgment for, after trial 636
report of master, plaintiff redeemend 645
notice of motion to enlarge time, for 653
order appointing new day for 656, 657
order for re-conveyance in action for 658

References to Masters and Referees, see **Administration, Foreclosure, Redemption, Sale,**
appeal from masters and referees, see **Appeal, Notice of Appeal**
appointment in master's office 583
affidavit of service of judgment or order 586
affidavit of non-payment of money 589
direction for production of documents 587
indorsement on office copy of judgment or order 584-585
notice of motion to confirm report 592
order confirming report 590, 593
order for distribution according to report 591
order extending time for report 594
order of referenece for enquiry and report 581
order of reference and for payment 582
report of master or referee 588

Release,
defence of 206

Renewal of Writ,
affidavit for 32
notice of, of fieri facias 537
order for 33
præcipe for 34

Rent, see **Landlord and Tenant, Distress,**
statement of claim for 168

Repair, see **Landlord and Tenant, Notice,** FORM NO.
statement of claim on covenant to 167

Report, see **Administration, Foreclosure, Redemption, Sale,**
affidavit of non-payment under 589
appeal from, notice of 814
administration action, in 626
foreclosure, in action of 642-645
lunacy, in 772
master, of 588
notice of appeal from 814
notice of motion to confirm 592
order on appeal from 818-820
order confirming 590, 593
order for distribution according to 591
order extending time for 594
presumption of death, of 631
sale, on 679
settling list of contributories 1211

Replevin,
affidavit for order of 1012
bond, in action of 1014
bond, assignment of 1015
judgment, in action of 494
judgment, interlocutory, in default 1017
judgment, for return of goods 1018
order of 1013
order of, withernam 1016
statement of claim in action of 170
statement of defence in action of 171, 172
writ of *retorno habendo* 1019

Reply, see **Pleading,**
form of 72
defence and counter-claim, to 73, 88

Representation,
absentees, of, order for 734
notice of motion for 358-360
order for 389, 390

Request, FORM NO.
- arbitrator, to concur in appointment of 1238
- distress, to withdraw 1055
- distress, not to remove goods under 1054
- distress, for extension of time to replevy 1059
- distress, to sell goods 1060
- letters of 274

Requisitions, see **Abstract of Title,**
- as to title 699
- as to title, notice endorsed on 700
- as to title, notice to purchaser for 698

Rescission,
- defence of 206

Reserved Case,
- affidavit on application for rule nisi 1658
- application to justice for 1653
- certificate of refusal to state a case 1654
- form of 1662, 1663
- form of case reserved for court of appeal 1667
- notice of hearing 1664
- notice of settling 1661
- order on hearing 1665, 1666
- order on hearing by court of appeal 1668
- order to shew cause 1655
- order to state a case 1656
- recognizance for 1660
- rule nisi for 1657
- rule nisi, affidavit in support 1658
- rule absolute, for 1659

Returning Officer,
- claim against for refusing vote of elector 173

Revivor, see **Continuing Proceedings,**

Royalty,
- claim under covenant to pay 169

Rule,
- absolute, for reserve case 1659
- absolute, to quash conviction 1635
- nisi, to quash conviction 1632
- nisi, for reserved case 1657

Sale, see **Administration, Foreclosure, Redemption, Sale Under Power of Sale, Winding-Up Act,** FORM NO.
abstract of title 693
abstract of title, demand of 692
abstract of title, notice endorsed on 694
abstract of title, objections to 695
abstract of title, objections to, notice on 696
abstract of title, notice to verify 697
advertisement of 674, 1184, 1185
advertisement of, direction of master as to 670
advertisement of, affidavit verifying 671
affidavit of fitness of auctioneer 672
affidavit fixing reserved bid 673
affidavit proving publication of advertisement 675
affidavit of auctioneer as to result of sale 677
alimony, order for, to realize 423
certificate of payment of purchase money 682
company, judgment for sale of assets of 432
compensation, notice of motion for 690
compensation, order for 691
conditions of 676
consent to order dispensing with payment into court ... 684
consent of adults to 662
consent of mortgagee to 663
consent of widow to 661
conveyance of land sold by the court 629
demand of abstract 692
demand of possession after 688
Devolution of Estates Act, notice of motion for sale under 1023
direction of master as to advertising 670
dower, judgment to realize by 434, 465
dower, order for sale of land free from 1029, 1030
dower, table to ascertain value of 703
election for defendant to conduct sale 669
final order of 668
further directions, order on 685
immediate, judgment for 667
infant, petition for sale of lands of 754
infant, order for sale of lands of 760, 761

Sale.—Continued. FORM NO.
infant, judgment for, where infant concerned 660
infant, notice to bind 664
judgment for immediate 667
judgment for, of assets of company 462
judgment for, to realize dower 434, 465
judgment for, on præcipe 632, 659
judgment for, with reference 659
judgment for, where infants' concerned 660
notice of election that defendant conduct 669
notice of motion to compel payment 680
notice of motion to dispense with payment into court 683
notice of motion for possession 689
notice of motion for compensation to purchaser 690
notice requiring delivery of possession 686
notice of delivery of possession 687
notice to purchaser as to objections 398
notice to bind infant, on coming of age 664
objections to title 699
order for, of lands of infant 760, 761
order for compensation to purchaser 691
order on further directions 685
order confirming report on 685
order for re-sale on default 681
order for, to realize alimony 423
order for, to realize dower 464, 465
order for, by private contract under fieri facias 405
order for, in lieu of foreclosure 666
order to take new account 665
payment of purchase money, certificate of 682
payment of purchase money, notice of motion for 680
payment of purchase money, notice of motion to dispense with 683
petition for, of infant's lands 754
possession, notice requiring 686
possession, notice of delivery of 687
possession, demand of 688
possession, notice of motion for 689
report on 679

Sale.—Continued. FORM NO.
report on, order confirming 685
requisitions as to title 699
re-sale on default, order for 681
statement of claim for 110
tender to purchase lands offered for 678
vesting order of lands sold 701
vesting order, certificate of, for registration 702

Sale of Goods,
claim in action for 174-177
defence in action for 178, 179
interpleader, order directing 931, 933

Sale under Power of Sale,
advertisement of 1079
advertisement, declaration of publication of 1080
advertisement, declaration of posting up bills 1081
auctioneer, declaration of 1082
notice of 1073-1075
notice of, indorsement of service of 1076
notice of, declaration of service of 1077
notice to tenant to pay rent 1083, 1084
notice to purchaser to complete 1085
notice to vendor to complete 1086
order for leave to commence an action 1078

Satisfaction Piece,
form of 514
notice of motion to set aside 366

Scheme,
advertisement of 1354
certificate of filing 1352
petition to confirm 1351
petition to confirm, notice of filing 1353

Scire Facias,
writ of 1355

Security for Costs, see **Appeal, Court of Appeal, Exchequer Court of Canada,**
affidavit of execution of bond for 330, 869
affidavit of justification of sureties 870, 964

Security for Costs.—Continued. FORM NO.
bond for, of action 38
bond for, of appeal to the Court of Appeal 849
bond for, of appeal to the Supreme Court 868
certificate of, having been given 871
notice of payment into court as 852
order for, issued on præcipe 37
order dispensing with 848
order allowing bond for 853
order that money paid in be allowed as 872
quashing by-law, recognizance on motion for 963
Seduction,
claim in action for 180
Sequestration,
affidavit on motion for 557
notice of motion for 560
order for writ of 566
writ of 568
Service, see **Service out of Jurisdiction,**
affidavit of 326, 329
affidavit of, of notice of motion 327
affidavit of, of subpœna 328
affidavit of, of writ of summons 18, 25, 26
affidavit of, of writ of summons by mailing 23
affidavit of, of writ of summons by advertisement 24
affidavit for substitutional 19, 20
affidavit of, of judgment or order 586
affidavit of, of appointment 1070
declaration of, of notice of sale 1077
order for substitutional 21, 22
order allowing 27
order allowing, by mail 1207
order as to special mode of 393
order dispensing with 393
Service out of Jurisdiction,
affidavit for order for 28
affidavit of service of notice of writ 30
notice of garnishee order for 577
notice of writ for 11
order for 29
writ of summons for 10

Set-Off, FORM NO.
costs of, judgment allowing 496
plea of 103

Setting Aside Proceedings, see **Quashing,**
notice of motion to set aside 337, 344
notice of motion to set aside order allowing service 338
notice of motion to set aside satisfaction piece 366
notice of motion to set aside judgment by default 339
notice of motion to strike out pleadings 340, 341
notice of motion to strike out scandalous matter 342
order to change or vary order 401

Settled Estates Act,
advertisement of application under 1122
notice of assent or dissent 1124
notice of hearing 1121
notice of petition 1123
notice to tenant to pay rent 1126
order under 1125
petition under 1120
petition, notice endorsed on 1121
petition, notice of 1123

Sheriff, see **Interpleader,**

Slander,
claim in action of 181, 183
defence in action of 182, 214

Solicitor,
notice of motion to strike off roll 372
order changing 377
order calling on, to show cause 391
order for taxation of bill of costs of 515-518
petition to strike off roll 373

Special Case, see **Reserved Case,**
arbitrators, stated by, for opinion of court 1256
form of 215
notice of motion to set down 218
notice of setting down 213
præcipe to set down 217
order after hearing 219, 220

Specific Performance, see **Vendor and Purchaser**, FORM NO.
affidavit of non-payment by purchaser 331
claim in action for, by purchaser 184
claim in action for, by vendor 185
defences in action for, ... 186
judgment for 497-499
notice of motion for enquiring as to title 367
order rescinding contract 404
Speedy Judgment, see **Immediate Judgment**,
Stay of Proceedings,
notice of motion for 349-356
Statement of Claim, see **Pleadings, Petition**,
general form of 68
notice in lieu of 69
Stated Case, see **Reserved Case, Special Case**,
Statement of Defence, see **Pleadings, Drainage Referee**,
general form of 70
defence and counter-claim 71
reply to 73
administration 77
bills and notes 80, 81
breach of promise 84
building contract 86
drainage 106
easement 107
foreclosure 111
fraud 113, 114, 116
libel 121
life insurance 124
malicious arrest 126
municipal corporation 130, 132
negligence 136, 139, 201
not guilty by statute 136, 161
possession, action for 152
railways 156, 157
redemption 165
replevin 171, 172
sale of goods 178, 179

Statement of Defence.—Continued. FORM NO.
slander 182, 214
specific performance 186
statute of frauds 187
statute of limitations 188
trespass 194
workman 201
general defences 204-214

Statute of Frauds,
defence of 187

Statute of Limitations,
defence of 188

Statutory Declaration,
form of 310
of service of notice of sale 1077
of publication of advertisement of sale 1080
of posting up bills 1081
of auctioneer 1082

Stop Order, see **Payment into Court,**
affidavit on motion for 715
form of 716
notice of motion to discharge 717
order discharging 718

Submission, see **Arbitration,**
affidavit of execution of 1235
arbitration, to 1230-1234

Subpoena,
ad test, for examination of parties 250
duces tecum for examination of parties 251

Substitutional Service,
affidavit for 19, 20
affidavit of, by mailing 23
affidavit of, by advertisement 24
affidavit of, on substituted person 25
order for 21, 22
order allowing 27

Succession Duty Act, see **Surrogate Court**, FORM NO.
affidavit required under 1484-1487
bond required under 1489
judgment declaring duty payable 500
Summons, see **Writ**,
on appeal from conviction to County Court judge 1675
to officer of company for misfeasance 1191
writ of 9, 10
Supreme Court of Canada, see **Appeal**,
appointment of agent on appeal to 874
bond on appeal to 868
bond on appeal to, affidavit of execution of 869
bond on appeal to, affidavit of justification 870
certificate of security having been given 871
certificate of settlement of case on appeal to 873
judgment allowing appeal to 877
judgment dismissing appeal to 878
notice of appeal to 867
notice of hearing appeal to 876
order that money paid in be allowed as security for costs 872
order made in chambers in 875
Surcharge,
form of 624
notice of 625
Surrogate Court,
appeal from, notice of 821
appeal from, certificate of judge 822
appeal from, order on 824
appeal from, judgment on 1428
appeal from, præcipe to set down 823
LETTERS OF ADMINISTRATION.
advertisement where intestate resided out of Ontario 1483
affidavit of death, place of abode, etc. 1449
affidavit of search for will 1446
affidavit of value of property 1450
affidavit of value of real estate 1451
affidavit of administrator 1448
affidavit of aministrator who can depose to all the facts 1456

Surrogate Court.—Continued. FORM NO.

LETTERS OF ADMINISTRATION.—Continued.

affidavit of widow for joint grant 1465
affidavit for administration to guardian 1464, 1463
affidavit for administration to committee 1467
affidavit for administration, limited 1468, 1471
affidavit for administration, cessate 1470
affidavit for administration, *de bonis non* 1472
affidavit to lead certificate 1479
affidavit to lead alteration in grant 1478
affidavit to lead revocation of grant 1477
affidavit proving lunacy 1482
affidavit of publication of advertisement for next of kin 1457
application for grant of 1444
application for grant of, notice of 1445
application for grant, advertisement of .....
bond of administrator 1452
bond, affidavit of execution of 1454
bond, affidavit of justification by sureties 1453
bond, covenant in lieu of 1455
certificate of search for will 1447
consent of next of kin 1461
exemplification of 1475
form of 1474
order assigning guardian to take grant 1462
order assigning guardian to renounce 1463
order revoking 1476
order for grant of 1473
power of attorney to take grant 1469
renunciation of 1458
renunciation of, by guardian 1460
renunciation, affidavit of execution 1459
Succession Duty Act, forms under
affidavit of value and relationship 1484, 1487
affidavit of value, schedules to 1458, 1486
bond by applicant 1489
bond, affidavit of execution 1491
bond, affidavit of justification by sureties 1490

Surrogate Court.—Continued. FORM NO.

LETTERS OF ADMINISTRATION.—Continued.

certificate of discharge 1496
direction to sheriff to make valuation 1492
notice of application 1488
notice by sheriff 1493
order to show cause 1495
report of sheriff 1494

LETTERS OF ADMINISTRATION WITH WILL ANNEXED.

affidavit of administrator 1500
application for 1497, 1498
application, notice of 1499
bond of administrator 1501
form of 1502

LETTERS PROBATE.

advertisement of application 1513
advertisement for lost will 1538
affidavit of death, place of abode, etc. 1505
affidavit of execution of will 1506, 1507
affidavit of execution of will, alterations 1531
affidavit of executor 1508, 1509
affidavit of executor, (save and except) 1521
affidavit of plight 1504
affidavit of attorney for executor 1519
affidavit of committee of lunatic executor 1520
affidavit of executor for probate *caeterorum* 1522
affidavit for cessate probate 1523-1525
affidavit of executor, former probate revoked 1526
affidavit of executor, double probate 1527
affidavit proving draft of will 1528
affidavit proving copy of will 1529, 1530
affidavit proving testator's knowledge 1532
affidavit proving execution where will signed in attestation clause 1533
affidavit proving death of witnesses 1534
affidavit proving absence of witnesses 1535
affidavit proving handwriting 1536
affidavit proving alterations 1537
affidavit proving publication of advertisement 1539

Surrogate Court.—Continued. FORM NO.

LETTERS PROBATE.—Continued.
affidavit proving domicile 1540
affidavit proving status 1541
affidavit proving foreign law 1542
affidavit for order to bring in script 1543
application for 1503
application for, notice of 1510
certificate of Surrogate clerk 1511
certificate of Registrar 1512
exemplification of 1518
form of 1516
form of double probate 1517
order to impound grant 1544
order revoking 1545
order to bring in testamentary paper 1546
petition for 1503
renunciation of 1514
renunciation, retraction of 1515

LETTERS OF GUARDIANSHIP.
advertisement of application for 1556
affidavit of guardian 1549
application for 1547
application, affidavit verifying 1548
application, notice of 1553, 1556
bond of guardian 1550
bond, affidavit of execution 1552
bond, affidavit of justification of sureties 1551
election of guardian by minors 1555
form of 1557
petition for 1547
petition for, affidavit verifying 1548
renunciation of 1554

PASSING ACCOUNTS.
accounts of executor or administrator 1565
accounts, affidavit verifying 1564
advertisement for creditors 1558
affidavit proving claim 1559
affidavit proving accounts 1564

Surrogate Court.—Continued. FORM NO.

PASSING ACCOUNTS.—Continued.

appointment for 1563
notice of contestation of claim 1560
notice of application to allow claim 1561
order on 1566
petition for 1562

CONTENTIOUS PROCEEDINGS.

affidavit of service of warning 1570
affidavit to lead citation 1572, 1573
affidavit for citation to exhibit inventory 1576
affidavit for citation to accept or refuse administration 1577
affidavit of service of citation 1574
affidavit of non-appearance to citation 1575
appearance to warning 1571
caveat 1567
caveat, notice of 1568
caveat, warning to 1569
citation, affidavit to lead 1572-1577
citation, notice of order of 1578
citation, order of, by creditor 1579
citation, order of, to accept or refuse probate 1580
citation, order of, to accept or refuse administration 1581
citation, order of, to bring in probate 1582
citation, order of, to bring in administration .. 1583, 1584
citation, order of, to bring in inventory 1585
motion paper 1586
notice of caveat 1568
notice of citation for publication 1578
order of citation, by creditor 1579
order of citation, to accept or refuse grant .. 1580, 1581
order of citation, to bring in letters 1582-1584
order of citation, to bring in inventory 1585
order for proof in solemn form 1587
order of procedure 1588
order for attendance of witnesses 1589
order appointing administrator *ad litem* 1590
order assigning guardian 1591

Surrogate Court.—Continued. FORM NO.

CONTENTIOUS PROCEEDINGS.—Continued.

order for grant to party cited 1592
order removing cause to High Court 1599
procedure order 1588
statement of claim—administration 1593
statement of claim—probate 1594
statement of claim—revocation of administration .. 1595
statement of claim—revocation of probate 1596
statement of defence—administration 1597
statement of defence—probate 1598
warning to caveat 1569
warning, affidavit of service of 1570
warning, appearance to 1571

Taxation of Costs,

affidavit of disbursements—witnesses 520
affidavit of disbursements—maps and plans 521
appointment for 519
appointment for, in Court of Appeal 527
appointment for, counsel fees, etc. 523
appointment for, and for fixing costs of parties not bringing in bills 526
appointment for, revision of 525
certificate of 528
fiat for allowance of costs of examination and increased counsel fees 524
notice of appeal from 812, 815
order on appeal from 813
objections to 522
solicitor and client, order for, delivery and taxation.. 515-518

Tax Deed,

claim in action to set aside 189

Tender,

advertisement of sale by 1184, 1185
notice of 1383
notice of, accepting or rejecting 1384
order approving of 1186
plea of 103
purchase lands, to 678

Third Party Procedure, FORM NO.
affidavit for leave to serve third party notice 54
appearance to third party notice 50, 57
indorsement on defence to be served on third party 63
judgment against third party in default of appearance 64
judgment against third party after trial 66
judgment in favour of third party 67
notice to third party 56, 1332
notice of motion for directions 58
order of directions 59, 60, 61
order for leave to serve third party notice 55
order setting aside third party notice and order of directions 62
order for judgment against third party 65

Title, see **Abstract of Title, Sale,**
abstract of 693
claim in action to set aside forged deed 190
notice of motion for enquiry as to 367
notice of motion under Vendors and Purchasers Act .. 370
notice of motion to decide dispute as to, between husband and wife 371
notice to purchaser for requisitions as to 698
notice to be endorsed on requisitions 700
objections to 699
requisitions as to 699

Trade Mark, see **Injunction,**
claim in action for infringement of 191
defence in action for infringement of 212
judgment in action for infringement of 501
order restraining infringement 896-898

Trespass,
to goods, claim for 192
to lands, claim for 193
to lands, defence to action for 194

Trial, see **County Court,**
affidavit to postpone 436
affidavit to change place of 432, 433
judgment after 451

Trial.—Continued. FORM NO.
judgment after, with jury 452
judgment declaring mis-trial 454
notice of 284, 285
notice of motion for new 832
notice of motion to change place of 431
notice of motion to postpone 435
order to postpone 457
order to change place of 434
order for trial in High Court of County Court action .. 1413
order for trial in county court 378, 1412
order to change place of, in county court 1424

Trustee,
advice, affidavit on motion for 790
affidavit of mortgagee for leave to pay surplus after sale into court 781
affidavit of trustee for leave to pay trust fund into court 782
affidavit on motion for payment out of court 786
affidavit on motion for advice 790
affidavit of elegibility of proposed 792
affidavit verifying consent of proposed 794
appointment of new, order for 791, 795
consent of proposed 793
consent of proposed, affidavit verifying 794
notice of motion for payment of trust fund out of court 785
notice of motion by, originating 788, 789
notice of order allowing payment into court 784
order allowing payment of trust fund into court 783
order allowing payment, notice of 784
order for payment out of court 787
order removing 791
order permitting, to retire and appointing another 795
order vesting personalty 796
originating notice of motion by 788, 789
payment of trust fund into court, affidavit for 781, 782
payment of trust fund into court, order for 783
removal of, order for 791
retirement of, order for 795
vesting order of personalty in 796

Trustee Relief Act, FORM NO.
affidavit for leave to pay into court 781, 782
notice of motion for payment out 785
notice of payment into court 784
order allowing payment into court 783
order for payment out of court 787

Undertaking,
to bring back infant within the jurisdiction 745
to deliver goods, distrained to bailiff 1056

Use and Occupation,
claim for 195

Vendors and Purchasers Act,
notice of motion under 370

Vesting Order,
of assets of company 1186, 1187
of lands 701, 402, 685
of lands, certificate of, for registration 702
of personalty 796
notice of motion for 364

Venditioni Exponas, see **Writ,**
writ of 539, 540
writ of, præcipe for 538

Ward of Court, see **Infant,**
notice of motion for leave to take out of jurisdiction.. 744
notice of motion to commit husband for marrying without leave 747
petition for leave of, to marry 746

Warehouseman,
claim for storage by 196

Warning,
affidavit of service of 1570
appearance to 1571
caveat, to 1569

Warrant, see **Appointment,**
committal for contempt in County Court, of..... 1423
extradition, of arrest in 1698, 1704
extradition, of 1700, 1710

Warrant.—Continued. FORM NO.
immediate possession, for 1441
release from custody after bail, of 1681
of arrest of ship 1369
of distress 1040-1042
of master 583, 640
of release of ship 1376
to produce a lunatic 769

Warranty,
claim in action for breach of 174

Waste,
claim in action to stay 197

Will, see **Surrogate Court,**
claim in action for construction of 198
judgment establishing 502
judgment declaring charitable gifts void 503
misdescription in, judgment on 477

Winding-Up Act,
PRELIMINARY PROCEEDINGS.
affidavit in support of petition 1164
affidavit of value of assets 1168
appointment of solicitor 1172
bond of liquidator 1169
demand for payment 1160
notice of hearing petition 1163
notice of appointment of liquidator 1170
order appointing permanent liquidator 1171
order calling meeting 1173
order for winding-up 1165, 1166
order for winding-up bank 1175, 1176
order of reference 1167
petition under 1161
petition, indorsement on 1162
petition, notice of hearing 1163
petition, affidavit in support 1164
proxy 1174
PROCEEDINGS BY LIQUIDATOR.
advertisement of sale by tender 1184, 1185
conveyance by 1188

Winding-Up Act.—Continued. FORM NO.

PROCEEDINGS BY LIQUIDATOR.—Continued.

order for leave to proceed 1177
order for leave to sue 1179
order to continue action 1178
order for leave to defend..... 1180
order for leave to carry on business 1181
order for leave to borrow 1182
order for leave to sell 1183
order approving tender 1186
order vesting assets 1187

EXAMINATION OF OFFICERS AND OTHERS.

certificate of liquidator for order 1189
certificate of master for 1194
order for 1190
order declaring misfeasance 1192, 1193
summons to officer of company 1191

CREDITORS.

advertisement for 1195
advertisement for, order dispensing with 1200
affidavit proving claim 1196
affidavit verifying dividend sheet 1202
notice to attend and prove claim 1197, 1198
notice of dividend 1203
order for production by 1199
order dispensing with notice to 1200
order for dividend 1201

CONTRIBUTORIES.

affidavit verifying list of 1204
affidavit of, contributory .....
affidavit as to compromise by 1212
affidavit of liquidator, compromise by 1213
affidavit of liquidator as to call 1222
agreement of compromise by 1214
calls on, affidavit showing necessity for 1222
calls on, notice of motion for 1218
calls on, order sanctioning 1219
calls on, order for payment of 1217, 1220, 1221
compromise, affidavit of contributory for 1212

Winding-Up Act.—Continued. FORM NO.

CONTRIBUTORIES.—Continued.

compromise, affidavit of liquidator for 1213
compromise, agreement for 1214
compromise, agreement for, order confirming 1215
compromise, order approving 1216
notice of motion for call 1218
objections of 1208
order for payment of call 1217
order sanctioning call 1219
order for call and payment 1220, 1221
order approving compromise 1215, 1216
order directing, to show cause 1205, 1206
order allowing service by mail 1207
order settling list of 1210
order striking off list of 1209
report, settling list of 1211

COMPLETING LIQUIDATION.

accounts, affidavit verifying 1226
accounts, notice of passing 1225
accounts, order on passing 1227
affidavit verifying accounts 1226
notice of passing accounts 1225
order on passing accounts 1227
order discontinuing proceedings 1223
order staying liquidation and restoring company .. 1224
order discharging liquidator 1228
order discharging liquidator and reserving questions between contributories 1229

Withernam,

order of 1016

Witness, see **Disbursements, Examination of Parties and Witnesses, Taxation,**

Workmen's Compensation for Injuries Act, see **Negligence, Pleadings,**

claim under, for injuries 199, 200
defence to action under 201
notice of accident under 3

Writ, see **Writ of Summons,** FORM NO.
attachment of the person, of 559
capias ad satisfaciendum, of 547-550
certiorari, of 1628, 1629
delivery of chattels, of 544, 545
fieri facias, of 530-535
fieri facias, for costs in controverted municipal election 982
fieri facias, against garnishee 578
fieri facias, notice of renewal of 537
habeas corpus, of 1644
habeas corpus, ad test 1652
possession, of 542
retorno habendo, of 1019
scire facias, of 1355
sequestration, of 568
subpœna, ad test 250, 1291
subpœna, duces tecum 251
summons, of 9, 10
summons, of, indorsements on 12-16

Writ of Summons,
amendment of,
præcipe to amend 31
affidavit of service of 18
affidavit for substitutional service 19
affidavit for substitutional service by solicitor 20
affidavit of service by mailing 23
affidavit of service by advertisement 24
affidavit of service on substituted person 25
affidavit of service when possession vacant 26
affidavit for leave to serve out of jurisdiction 28
form of 9
for service out of jurisdiction 10
notice in ileu of writ 11
indorsements on,
money claims 12
special indorsements 13
for costs 14
for damages 15
for equitable relief 16

Writ for Summons.—Continued. FORM NO.
order for substitutional service by mailing 21
order for substitutional service by advertisement 22
order allowing service 27
renewal of,
affidavit for renewal of 32
affidavit of service of notice of writ 30
order for leave to serve out of jurisdiction 29
order for renewal of 33
præcipe to renew 34
Wrongful Dismissal,
statement of claim in action for 128
Wrongful Distress,
statement of claim for 202, 203