

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires:

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>									
	12x		16x		20x		24x		28x		32x

EXCHEQUER COURT OF CANADA,

General Rules and Orders.

INDEX.

RULE.	PAGE.
1. Mode of Procedure in Revenue causes arising in any Province except Province of Quebec.....	1
2. In causes arising in Province of Quebec.....	1
3. Rules next following not to apply to certain suits	1
4. Suits on behalf of Crown in interest of Dominion, to be by Information.....	2
5. By whom Information to be signed.....	2
6. Form of Information.....	2
7. How suits other than by Information and Petition of Right to be instituted	2
8. Petition of Right to be signed by Counsel.....	2
9. What pleadings to be written and what printed.....	2
10. How to be printed.....	2
11. Written copies may be filed in case of urgency.....	2
12. Printed copies to be furnished opposite party.....	2
13. Petitions of Right, how to be served.....	2
14. Office copy of Information or statement of claim to be served, and how endorsed	2
15. Service to be personal.....	3
16. Service upon a Corporation.....	3
17. Service upon partners.....	3
18. Substitutional service.....	3
19. On husband and wife.....	3
20. On Infant.....	3
21. On Lunatic.....	3
22. On Lunatic, not interdicted, &c.....	3
23. Service out of jurisdiction.....	4
24. Service by advertisement.....	4
25. Judge may also order copy of Information &c., and order to be mailed.....	4
26. No appearance required, how pleadings to Informations, &c., to be filed....	4
27. Times for filing Statement in answer or demurrer.....	4
28. Petitions of Right, pleadings in.....	5
29. Attorney General to file plea, &c., in twenty-eight days.....	5
30. Pleading generally.....	5
31. The following Rules not to apply to certain cases.....	5
32. All pleadings to be concise statements of material facts, but not of evidence	5
33. A copy of every pleading to be served on opposite party.....	5
34. How pleadings to be dated and entitled.....	5

RULE.	PAGE.
35. No plea or defence to be pleaded in abatement.....	5
36. When an allegation of fact in a pleading is to be taken as admitted.....	5
37. Every party must allege all facts on which he means to rely—and all grounds of defence and reply which might take opposite party by surprise, or raise new issues.....	5
38. No pleading to be inconsistent with previous pleadings of same party.....	6
39. Allegations of fact must not be denied generally.....	6
40. Issue may be joined on defence or any pleading subsequent to reply—effect of joinder of issue.....	6
41. Allegations not to be denied evasively.....	6
42. Sufficient to state effect of document.....	6
43. Sufficient to allege notice as a fact.....	6
44. Sufficient to allege contract arising from letters or conversations as a fact—and contracts arising therefrom may be stated in the alternative.....	6
45. Not necessary for party to allege matters of fact which law presumes in his favor.....	6
46. Pleading matters arising pending the action, by defendant before delivering defence or time for its delivery expired.....	6
47. After delivery of defence or time for its delivery expired.....	6
48. On confessing defence arising after commencement of action plaintiff may sign judgment for costs.....	6
49. First pleading to be called—"Statement in defence,"—when to be filed....	7
50. Discontinuance.....	7
51. The Reply.....	7
52. When to be filed and served.....	7
53. No pleading subsequent to reply except joinder, without order of Judge....	7
54. Time for delivery of pleadings subsequent to reply.....	7
55. Close of pleadings.....	8
56. Issues.....	8
57. Amendment of pleadings.....	8
58. Attorney General or petitioner may amend any time before filing of defence	8
59. Opposite party may apply to disallow amendment.....	8
60. On amendment by one party, other party may apply for leave to plead or amend.....	8
61. Further powers of amendment.....	8
62. If amendment not made within time limited order for amendment to become void.....	9
63. How pleadings may be amended.....	9
64. Amended pleadings to be marked with date of order under which amendment made.....	9
65. When amended pleading to be served.....	9
66. Demurrers.....	9
67. Form of.....	9
68. When to be filed and served.....	9
69. Demurrer and defence to be in one pleading.....	9
70. Attorney General may demur and plead without leave.....	9
71. Leave to plead and demur to be obtained.....	9
72. Setting down demurrer for argument.....	10
73. While demurrer pending no pleading to be amended.....	10
74. When demurrer to whole of petition, information, or statement allowed costs of action to be paid.....	10
75. When demurrer to pleading or any part pleading allowed matter demurred to be deemed struck out of pleadings.....	10
76. Costs when demurrer over ruled.....	10
77. When demurrer over ruled court may allow demurring party to plead.....	10
78. Form of setting down demurrer for argument.....	10

RULE.	PAGE.
79. Notice of argument of, when to be served.....	10
80. When default in pleading action may be set down on motion for judgment.	10
81. When one of several defendants makes default.....	10
82. Default by Attorney General.....	11
83. Default in replying or demurring within time limited, effect of.....	11
84. If no reply or demurrer or subsequent pleading delivered after expiring of one month after period allowed defendant may apply to dismiss action for want of prosecution.....	11
85. Judgment by default may be set aside by Court or Judge.....	11
86. Petitioner, plaintiff or defendant may be examined by opposite party.....	11
87. Departmental or other officers of the Crown may be examined.....	11
88. Examination in actions against Corporations.....	11
89. Subpœna to be issued to enforce attendance.....	11
90. Production of documents at examination.....	11
91. Parties to be examined to be paid.....	12
92. Examination of parties without the jurisdiction by interrogatories.....	12
93. Case of party omitting to answer.....	12
94. Order for production may be made by Court or Judge at any time.....	12
95. Order for discovery of documents may be applied for without filing affidavit.....	12
96. Affidavit to be made by party upon whom order made.....	12
97. Production of documents for inspection.....	12
98. Form of notice to produce.....	12
99. Notice when inspection may be made.....	12
100. Order for inspection may be obtained.....	13
101. Application for to be to a Judge upon affidavit.....	13
102. Judge may order any issue or question to be first determined.....	13
103. Consequences of not appearing to reply to order.....	13
104. How service of order for discovery or inspection may be made.....	13
105. If at trial part of any examination read the whole to be considered in evidence	13
106. Any party may give notice of admissions.....	13
107. Notice to admit and costs of refusing.....	13
108. Form of notice.....	14
109. Affidavit as to admissions.....	14
110. Inquiries and accounts.....	14
111. Special case may be stated for opinion of Court.....	14
112. Questions of law may be first tried.....	14
113. Special case to be printed.....	14
114. Special case in actions where married woman, infant or lunatic is party....	14
115. Entry of special case for argument.....	15
116. Order for trial.....	15
117. Venire facias, order for.....	15
118. Trials of issues of facts to be at bar.....	15
119. Countermand of notice of trial.....	15
120. Sheriff may adjourn sittings in absence of Judge.....	15
121. Default by Defendant in appearing at trial.....	15
122. Default by Attorney General or Petitioner in appearing at trial.....	15
123. Postponement of trial.....	15
124. Directions by Judge at trial.....	15
125. Findings of fact and directions of Judge to be entered by officer of Court..	15
126. Where Judge directs judgment to be entered to any party absolutely.....	15
127. Where Judge directs judgment to be entered subject to leave to move.	16
128. Judge at trial may refer cause.....	16
129. Printed copies of pleadings to be furnished for use of Judge.....	16
130. Copy of Judge's notes to be made.....	16
131. Evidence generally.....	16

RULE.	PAGE.
132. Evidence by affidavit in certain cases.....	16
133. What affidavits to contain.....	16
134. Court or Judge may order any person to be examined.....	17
135. Deponents may be cross-examined on affidavit.....	17
136. How affidavits to be drawn.....	17
137. When to be filed.....	17
138. Application for new trial.....	17
139. Order for when to be served.....	17
140. Not to be granted on certain grounds.....	17
141. New trial may be ordered of any question.....	17
142. Order to show cause to stay proceedings.....	17
143. Motion for judgment.....	17
144. Judgment to be obtained on motion.....	18
145. Setting down on motion for judgment and giving notice.....	18
146. Where judgment not directed to be entered at trial, the Attorney General, Plaintiff, or Petitioner may set down action on motion for judgment, on his default defendant may do so.....	18
147. When preliminary judgment entered and reference ordered.....	18
148. Where in trial before Jury Judge has directed judgment to be entered.....	18
149. Motion to set aside judgment entered.....	18
150. How and when motion to be made.....	18
151. Setting down on motion for judgment where issues or questions of fact ordered to be determined.....	18
152. Where some only of such issues have been tried.....	18
153. No action to be set down for motion for judgment after expiration of one year.....	19
154. Proceedings on motion for judgment.....	19
155. Order may be applied for on admission of facts.....	19
156. Entry of judgment, form of.....	19
157. When to be dated.....	19
158. Effect of judgment on nonsuit.....	19
159. Proceedings on reference.....	20
160. Evidence may be taken upon.....	20
161. Powers of Registrar or referee.....	20
162. Registrar or referee not authorized to attach.....	20
163. Registrar or referee may reserve questions for decision of Court.....	20
164. Report to be filed.....	20
165. Appeal from report.....	20
166. Proceedings where judgment against Crown directing payment of money.....	20
167. Judgment for payment of money against any party other than Crown may be enforced by <i>fi. fa.</i> or sequestration.....	20
168. Judgment for payment of money into Court may be enforced by sequestration.....	20
169. For recovery or delivery of possession of land by writ of possession.....	21
170. Where judgment for recovery of any property other than land or money.....	21
171. Where judgment requires the doing or abstaining from any act.....	21
172. No attachment to issue to compel payment of money.....	21
173. Meaning of terms "writ of execution" and "issuing execution against any party".....	21
174. No execution to be issued without production of judgment.....	21
175. Præcipe to be issued.....	21
176. When writ to be dated.....	21
177. Poundage fees and expenses of execution may be levied.....	21
178. How writ to be endorsed.....	21
179. Directions to sheriff on.....	21
180. Writs of <i>fi. fa.</i> may be issued immediately after judgment entered except in certain cases.....	21

RULE.	PAGE.
181. Renewing writs.....	21
182. Evidence of renewal.....	22
183. Execution may issue within 6 years.....	22
184. After that time by leave of Court or Judge.....	22
185. Every order of Court or Judge may be enforced in the same manner as judgment.....	22
186. Enforcing order or judgment against person not being party to an action..	22
187. Application for stay of execution.....	22
188. Forms of writs of <i>fi. fa.</i>	22
189. What interests may be sold under such writs.....	22
190. Lands not to be sold until after lapse of 6 months.....	22
191. Lands and goods to be bound from delivery of writ.....	23
192. Writ of <i>venditioni exponas</i> may issue, form of.....	23
193. Sheriff to follow laws of his province as to mode of selling.....	23
194. Writ of attachment to be executed according to exigency thereof.....	23
195. No writ of attachment to be issued without leave of Court or Judge.....	23
196. When writ of sequestration may issue.....	23
197. Form and effect of.....	23
198. Court or Judge may order proceeds of to be paid into Court.....	23
199. When writ of possession may issue.....	23
200. May issue on affidavit.....	23
201. Writ of delivery.....	23
202. Action not to be abated by marriage, &c.....	24
203. Addition of parties in certain cases.....	24
204. Continuation of action in case of assignment or change of estate or title....	24
205. Adding or changing parties in certain cases.....	24
206. Service of order for.....	24
207. Application may be made to discharge or vary such order.....	24
208. Where person served is under any disability.....	24
209. Injunctions and receivers.....	25
210. Conservatory orders.....	25
211. How money to be paid into Court.....	25
212. Order for payment of money out of Court.....	25
213. How money to be paid out of Court.....	25
214. Sittings of Judge in Court.....	25
215. Setting down of demurrers, special cases and motions.....	25
216. Last rule not to apply to <i>ex parte</i> motions.....	25
217. Application to be made to a Judge in Court by motion.....	25
218. No rule or order to show cause to be granted except where authorized by these rules.....	25
219. Motions to be on notice.....	25
220. Notice to be served two clear days before hearing.....	25
221. Proceedings where notice not given to proper parties.....	25
222. Hearing of any motion may be adjourned.....	26
223. Notice may be served without special leave in certain cases.....	26
224. May be served with or after filing of information or petition of right by leave.....	26
225. Application at Chambers.....	26
226. Judge may rescind his own order.....	26
227. Costs may be awarded against the Crown.....	26
228. Provision as to costs.....	26
229. How to be taxed.....	26
230. Witness Fees.....	26
231. Appeals to the Supreme Court.....	26
232. Case in appeal how to be settled and what to contain.....	27
233. The Agents Book.....	27

RULE.	PAGE.
234. When the party appears in person.....	27
235. Service in case of neglect to enter name.....	27
236. Writs.....	27
237. Subpœnas.....	27
238. Writs in revenue causes how to be tested.....	27
239. Writs may be amended.....	27
240. Recognizances.....	27
241. May be on paper.....	27
242. Registrar's office hours.....	28
243. Registrar's office hours in vacation.....	28
244. Books to be kept in Registrar's Office.....	28
245. Registrar's ministerial powers.....	28
246. Sheriff's fees.....	28
247. Christmas vacation.....	28
248. Long vacation.....	28
249. Computation of time.....	28
250. Months to be calendar months.....	28
251. Certain days not to be computed.....	28
252. Where time for taking any proceeding expires on a Sunday or day on which office is closed.....	28
253. No pleadings to be amended or delivered in long vacation.....	28
254. Long vacation not to be reckoned in computation of time.....	29
255. Powers of Court or Judge as to enlarging or abridging time.....	29
256. Formal objections not to prevail.....	29
257. Effect of non compliance with rules.....	29
258. In proceedings not provided for practice of Her Majesty's High Court of Justice in England to be followed.....	29
259. and 260. Interpretation.....	29
261. Rules applicable to Province of Quebec.....	30

In pursuance of the Provisions contained in the 79th section of the 38th Victoria, Chapter 11, intituled: "An Act to establish a Supreme Court and a Court of Exchequer for the Dominion of Canada," and also of Provisions contained in the Act 38th Victoria, Chapter 12, intituled: "An Act to Provide for the Institution of Suits against the Crown by Petition of Right, and respecting Procedure in Crown Suits," it is Ordered that the following Rules, in respect of the matters hereafter mentioned, shall be in force in the Exchequer Court of Canada.

Revenue Causes.

1. In the several classes of cases mentioned in Section 58 of the said Act, hereafter in these Rules styled "Revenue Causes," where the cause of action or suit shall arise in any of the Provinces other than the Province of Quebec, whether the same be instituted by or on behalf of the Crown, or against the Crown, or any officer thereof, and whether the same be in the nature of a suit in equity or of an action at law, the process, practice, evidence, times for taking proceedings, forms and modes of procedure shall conform, as near as may be, to the process, practice, evidence, times, forms and mode of procedure in use in like causes in the Exchequer Division of Her Majesty's High Court of Justice in England, except in so far as it may be otherwise provided by the said Act, or by these Rules.

2. In all causes in the said Exchequer Court including non Revenue causes as well as Revenue causes, where the cause of action or suit shall arise in the Province of Quebec, the process, practice, pleadings, evidence, and forms and modes of procedure shall conform, as near as may be, to those in use in like causes in Her Majesty's Superior Court for the Province of Quebec, except in so far as it may be otherwise provided by the said Act, or by these Rules.

3. The following rules are not to apply to suits in which the cause of action arises in the Province of Quebec, except when expressly so provided.

Informations in Suits by the Crown and Petitions of Right.

4. All suits on behalf of the Crown in the interest of the Dominion of Canada, which according to the practice of the Exchequer Division of Her Majesty's High Court of Justice in England would be instituted by information are to be instituted by Information filed in the name of the Attorney-General of the Dominion.

5. Every Information is to be signed by the Attorney-General of the Dominion, or by some person duly authorized to affix the signature of the said Attorney General thereto.

6. The Information is to conclude with a claim for the relief sought, and the commencement and conclusion thereof may be in the form given in Schedule A to these orders.

7. Suits in the said Court other than suits by the Attorney General or by the Crown and Petitions of Right are to be instituted by filing a statement of claim which may be according to the form given in Schedule B to these orders, and which shall conform to the Rules of pleading hereinafter prescribed, and to the system and mode of pleading now in use in Her Majesty's High Court of Justice in England.

8. Every Petition of Right is to be signed by Counsel for the Petitioner, as provided for by the Statute applicable thereto.

Printing Pleadings.

9. Every pleading which shall contain less than three folios of one hundred words each (every figure being counted as one word) may be either printed or written, or partly printed and partly written, and every other pleading shall be printed.

10. Pleadings and other proceedings required to be printed shall be printed on paper, of good quality, in small pica type leaded, with an inner margin about three-quarters of an inch wide, and an outer margin about two and a half inches wide.

11. In any case which may appear to the Registrar to be one of urgency he may permit a written copy of a pleading to be filed, upon the party so filing the same giving a written undertaking to file a printed copy within *five days* thereafter.

12. The party printing any pleading or other proceeding shall, on demand in writing, furnish to any other party, his Attorney or Solicitor, any number of printed copies, not exceeding ten, upon payment therefor at the rate of five cents per folio for one copy, and three cents per folio for every other copy.

Service of Information, Statement of Claim or Petition.

13. Petitions of Right are to be left at the Office of Her Majesty's Attorney General, and served as prescribed by the Statute in such case made and provided.

14. In suits instituted by Information or by filing a statement of claim no writ or process to appear, plead or answer shall issue, but an office copy of the Information, or statement of claim duly certified by the Registrar, shall be served on the Defendant, with an endorsement thereon in the form or to the effect set forth in Schedule C to these orders appended.

15. Service upon a Defendant of an office copy of the Information or statement of claim is to be effected personally, except in the cases hereinafter otherwise provided for; but it shall not be necessary to produce the original Information or statement of claim at the time of service.

16. Service of an Information, Statement of claim or Petition of Right within the jurisdiction of the Court upon a Corporation aggregate is to be effected by personal service of an office copy thereof on the Warden, Reeve, Mayor, or Clerk in case of a Municipal Corporation, or on the President, Manager or other head officer, or the Cashier, Treasurer or Secretary at the head office, or at any branch or agency in the Dominion of Canada, or on any other person discharging the like duties, in the case of any other corporation.

17. When parties are sued in respect of any partnership liability, the Information, Statement of claim or Petition of Right may be served either upon any one or more of the partners, or at the principal place (within the jurisdiction) of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and such service shall be deemed good service upon all the partners composing the firm.

Substitutional Service.

18. If it be made to appear to the Court or to a Judge, that from any cause prompt personal service cannot be effected, the Court or Judge may make such order for substituted, or other service, as may seem just.

Service on particular defendants

19. When husband and wife are both Defendants, service on the husband shall be deemed good service on the wife, but the Court or a Judge may order that the wife shall be served with or without service on the husband.

20. When an infant is Defendant to an Information, Statement of Claim or Petition of Right, service on his or her father or guardian or tutor or, if none, then upon the person with whom the infant resides, or under whose care he or she is, shall, unless the Court or a Judge otherwise orders, be deemed good service on the infant; provided that the Court or a Judge may order that service made or to be made on the infant shall be deemed good service.

21. When a Lunatic, so found by inquisition, or (in the Province of Quebec) a Lunatic or person of unsound mind, or one who, for other causes, has been judicially interdicted, or subjected to judicial advisers, is a Defendant to any suit, service of the information petition of right or statement of claim on the Committee of the Lunatic, the Curator of the interdicted person, or any one of the judicial advisers shall be deemed good service.

22. When a person of unsound mind, not so found by inquisition or judicially interdicted, or subjected to judicial advisers, is a Defendant to any suit, service of the Information, petition of right or statement of claim on the person with whom the person of unsound mind resides, or under whose care he or she is, shall, unless the Court or a Judge otherwise orders be deemed good service on such Defendant.

Service out of Jurisdiction.

23. When a Defendant is out of jurisdiction of the Court, then upon application, supported by such evidence as may satisfy the Court, or a Judge in what place or country such Defendant is or may probably be found, the Court or a Judge may order that an office copy of the Information, petition of right or statement of claim be served on the Defendant in such place or country or within such limits as the Court or Judge thinks fit to direct; and the order is in such case to limit a time (depending on the place of service) within which the Defendant is to file his statement in defence plea, answer, exception or demurrer, or otherwise make his defence according to the practice applicable in the particular case, or obtain from the Court or a Judge further time so to do.

Advertisement in case of a Defendant not to be found.

24. In case it appears to the Court or a Judge by sufficient evidence that a Defendant cannot be found, after due and diligent search, to be served with an office copy of the Information, Petition of Right or statement of claim the Court or a Judge may order the Defendant to file his plea, answer, demurrer, exception, or otherwise make his defence according to the procedure applicable to the case, within a time to be limited in the order, and may direct a copy of the order, together with a notice to the effect set forth in Schedule D to these orders appended, to be published in such manner as the Court or Judge thinks fit; and in case the Defendant does not file any plea, answer, demurrer, or exception or otherwise make his defence within the time limited by such order, the Court or Judge, upon proof that advertisements have been duly published according to the requirements of the order, may direct that the case shall thereafter proceed as though the Defendant had filed a plea, answer, or defence traversing and denying the allegations contained in the Information, petition of right or statement of claim, and the action shall thereafter proceed accordingly.

25. In any case provided for by the last preceding order, the Court or a Judge may, in addition to the advertisement therein mentioned, direct that an office copy of the Information, petition of right or statement of claim, and a copy of the order shall be forthwith mailed, with the postage prepaid, to the address of the Defendant, at such place as the Court or a Judge may direct, in which case proof by affidavit, of due compliance with such requirement, shall be produced before any order is made permitting the plaintiff to proceed as provided for by the next preceding order.

No Appearance to Informations—Pleadings.

26. No appearance to any information or statement of claim shall be required; but a Defendant who is served with an Information or statement of claim shall file his statement in answer, demurrer or other defence to the Information or statement of claim conformably to the procedure and mode of pleading hereby provided for as the first step in his defence.

27. The defence statement in answer or demurrer shall be filed within times hereinafter respectively limited, or within such further extended time as the Court or Judge may order, that is to say:

1. If the Defendant resides in either of the Provinces of Ontario, Quebec, Nova Scotia, New Brunswick or Prince Edward Island, within *one month* after service.
2. If the Defendant resides in either of the Provinces of Manitoba or British Columbia, within *two months* after service.

Form of Pleading in Petitions of Right.

28. In suits by Petition of Right the pleadings subsequent to the Petition shall be regulated by and conform to the procedure and mode of pleading hereinafter prescribed.

29. The Attorney-General is to file his statement in defence, demurrer, or other defence to a Petition of Right within *twenty-eight days* after an office copy of the Petition, with the endorsement thereon required by the Statute in that behalf made, shall have been left at his Office in the City of Ottawa.

Pleading Generally.

30. The pleadings in actions in the said Exchequer Court shall conform as nearly as may be to the forms and system of pleading now in use in Her Majesty's High Court of Justice in England. Excepting as regards cases the cause of action in which shall have arisen in the Province of Quebec.

31. The following rules of pleading shall apply to all cases in the said Court excepting those in which the cause of action shall have arisen in the Province of Quebec.

32. Every pleading shall contain as concisely as may be a statement of the material facts on which the party pleading relies, but not the evidence by which they are to be proved, such statement being divided into paragraphs, numbered consecutively, and each paragraph containing, as nearly as may be, a separate allegation. Dates, sums, and numbers shall be expressed in figures and not in words. Signature of Counsel shall not be necessary, except as regards Informations, Petitions of right and statement of claim. Forms similar to those in Schedule E hereto may be used.

33. Every pleading is to be filed and a copy thereof is to be served on the opposite party or on his Attorney or Solicitor, if he has one, or left at the office of the Attorney-General as the case may be.

34. Every pleading shall on its face be entitled of the day and year on which it is filed, and shall also be entitled in the cause.

35. No plea or defence shall be pleaded in abatement.

36. Every allegation of fact in any pleading in an action, not being an Information, Petition of right or statement of claim, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted, except as against an infant, lunatic, person of unsound mind not so found by inquisition, or other person judicially incapacitated.

37. Each party in any pleading, not being an Information, petition of right or statement of claim must allege all such facts not appearing in the previous pleadings as he means to rely on, and must raise all such grounds of defence or reply, as the case may be, as if not raised on the pleadings would be likely to take the opposite party by surprise, or would raise new issues of fact not arising out of the pleadings.

38. No pleading, not being an Information, Petition of right or statement of claim shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

39. It shall not be sufficient for a Defendant in his defence to deny generally the facts alleged by the Information, Petition of Right or statement of claim, but he must deal specifically with each allegation of fact of which he does not admit the truth.

40. The Attorney-General Petitioner or Plaintiff by his reply may join issue upon the defence, and each party in his pleading, if any, subsequent to reply, may join issue upon the previous pleading. Such joinder of issue shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined, but it may except any facts which the party may be willing to admit, and shall then operate as a denial of the facts not so admitted.

41. When a party in any pleading denies an allegation of fact in the previous pleading of the opposite party, he must not do so evasively, but answer the point of substance. And when a matter of fact is alleged with divers circumstances, it shall not be sufficient to deny it as alleged along with those circumstances, but a fair and substantial answer must be given.

42. Wherever the contents of any document are material it shall be sufficient in any pleading to state the effect thereof as briefly as possible without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

43. Whenever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact unless the form or the precise terms of such notice be material.

44. Wherever any contract, or any relation between any persons, does not arise from an express agreement, but is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations, or circumstances, without setting them out in detail. And if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one, as to be implied from such circumstances, he may state the same in the alternative.

45. Neither party need in any pleading allege any matter of fact which the law presumes in his favor, or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied.

Pleading Matters arising pending the Action.

46. Any ground of defence which has arisen after action brought, but before the Defendant has delivered his statement of defence, and before the time limited for his doing so has expired, may be pleaded by the Defendant in his statement of defence, either alone or together with other grounds of defence.

47. Where any ground of defence arises after the Defendant has delivered a statement of defence, or after the time limited for his doing so has expired, the Defendant may, within fourteen days after such ground of defence has arisen, and by leave of the Court or a Judge, deliver a further defence setting forth the same.

48. Whenever any Defendant, in his statement of defence, or in any further statement of defence as in the last rule mentioned alleges any ground of defence which has arisen after the commencement of the action, the Attorney General, Petitioner or Plaintiff may deliver an admission of such defence, which admission may be in the form in Schedule F hereto, with such variations as circumstances may require, and he may thereupon sign judgment for his costs up to the time of the pleading of such defence unless the Court or a Judge shall either before or after the delivery of such admission, otherwise order.

Statement in defence

49. The first pleading by a Defendant is to be termed the statement in defence, and it shall be filed within the time hereinbefore or by the said Petition of Rights Act prescribed, and a copy of it shall also be served as hereinbefore provided for pleadings generally.

Discontinuance

50. The Attorney General, Petitioner or Plaintiff may, at any time before receipt of the Defendant's statement of defence, or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application), by notice in writing, wholly discontinue his action or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay the Defendant's costs of the action, or, if the action be not wholly discontinued, the Defendant's costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as in this Rule otherwise provided, it shall not be competent for the Attorney-General, Petitioner or Plaintiff to withdraw the Record or discontinue the action without leave of the Court or a Judge, but the Court or a Judge may, before or at or after the hearing or trial, upon such terms as to costs, and as to any other action, and otherwise as may seem fit, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out. The Court or a Judge may, in like manner, and with the like discretion as to terms, upon the application of a Defendant, order the whole or any part of his alleged grounds of defence to be withdrawn or struck out, but it shall not be competent to a Defendant to withdraw his defence, or any part thereof, without such leave.

Reply and Subsequent Pleadings.

51. The pleading of the Attorney-General, Petitioner or Plaintiff, in answer to the defence shall be called the reply.

52. The Attorney-General Petitioner or Plaintiff shall file and serve his reply; if any, within *one month* after the defence or the last of the defences shall have been served unless the time shall be extended by the Court or a Judge.

53. No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the Court or a Judge, and then upon such terms as the Court or Judge shall think fit.

54. Subject to the last preceding Rule, every pleading subsequent to reply shall be filed and served within *two weeks* after the service of the previous pleading, unless the time shall be extended by the Court or a Judge.

Close of Pleadings.

55. As soon as either party has joined issue upon any pleading of the opposite party simply without adding any further or other pleading thereto, the pleadings as between such parties shall be deemed to be closed.

Issues.

56. Where in an action it appears to a Judge that the pleadings do not sufficiently define the issues of fact in dispute between the parties, he may direct the parties to prepare issues, and such issues shall if the parties differ, be settled by the Judge.

Amendment of Pleadings.

57. The Court or a Judge may at any stage of the proceedings allow either party to alter his Information, Petition of Right, Statement of claim, defence, or reply, or may order to be struck out or amended any matter in such pleadings or statements respectively which may be impertinent or irrelevant, or which may tend to prejudice, embarrass, or delay the fair trial of the action, and all such amendments shall be made as may be necessary for the purpose of determining the real question or questions in controversy between the parties.

58. The Attorney-General, Petitioner or Plaintiff may, without any leave, amend the Information, Petition of Right or Statement of claim at any time before the filing of a defence, and also once after defence filed before the expiration of the time limited for reply, and before replying.

59. Where any party has amended his pleading under the last preceding Rule, the opposite party may within *two weeks* after the delivery to him of the amended pleading, apply to the Court or a Judge to disallow the amendment or any part thereof, and the Court or Judge may, if satisfied that the justice of the case requires it, disallow the same.

60. When any party has amended his pleading under Rule 58 the other party may apply to the Court or a Judge for leave to plead anew or to amend his former pleading within such time and upon such terms as may seem just.

61. In addition to the foregoing powers of amendment, at any time during the progress of any action, suit or other proceeding in the said Exchequer Court, the Court or a Judge may upon the application of any of the parties, and whether the necessity of the required amendment shall or shall not be occasioned by the error, act, default or neglect of the party applying to amend, or without any such application, make all such amendments as may seem necessary for the advancement of justice, the prevention and redress of fraud, the determining of the rights and interests of the respective parties and the real question in controversy, and best calculated to secure the giving of judgment according to the very right and justice of the case, and

71. If a party other than the Attorney-General desires to be at liberty to plead as well as to demur to the same matter, he may apply to the Court or a Judge for an order giving him leave to do so, and the Court or Judge, if satisfied that there is reasonable ground for the demurrer, may make an order accordingly, or may reserve leave to him to plead after the demurrer is overruled, or may make such other order and upon such terms as may be just.

72. When a demurrer either to the whole or part of a pleading is filed and served, either party may set down the demurrer for argument immediately, and the party so setting down such demurrer for argument, shall on the same day give notice thereof to the other party. If the demurrer shall not be set down, and notice thereof given within ten days after service, and if the party whose pleading is demurred to does not within such time serve an order for leave to amend, the demurrer shall be held sufficient for the same purposes and with the same result as to costs as if it had been allowed on argument.

73. While a demurrer to the whole or any part of a pleading is pending such pleading shall not be amended unless by order of the Court or a Judge, and no such order shall be made except on payment of the costs of the demurrer.

74. If a demurrer to the whole of an Information, Petition of Right or Statement of Claim be allowed, the Crown, Petitioner or Plaintiff as the case may be, subject to the power of the Court to allow the statement of claim to be amended, shall pay to the demurring defendant the costs of the action, unless the Court shall otherwise order.

75. Where a demurrer to any pleading or part of a pleading is allowed in any case not falling within the last preceding Rule, then (subject to the power of the Court to allow an amendment) the matter demurred to shall as between the parties to the demurrer be deemed to be struck out of the pleadings, and the rights of the parties shall be the same as if it had not been pleaded.

76. Where a demurrer is overruled the demurring party shall pay to the opposite party the costs occasioned by the demurrer, unless the Court shall otherwise direct.

77. Where a demurrer is overruled the Court may make such order and upon such terms as to the Court shall seem right for allowing the demurring party to raise by pleading any case he may be desirous to set up in opposition to the matter demurred to.

78. A demurrer shall be set down for argument by delivering to the proper officer a præcipe in the Form in Schedule H.

79. Notice of argument of a demurrer is to be served at least *eight clear days* before the argument.

Default of Pleading.

80. If the Defendant makes default in delivering a defence or demurrer the Attorney-General or Plaintiff may set down the action on motion for judgment, and such judgment shall be given as upon the information, or statement of claim the Court shall consider the Attorney General or Plaintiff to be entitled to.

81. Where there are several Defendants, then, if one of such Defendants

make such default as aforesaid, the Attorney General or Plaintiff may either set down the action at once on motion for judgment against the Defendant so making default, or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other Defendants.

82. In case the Attorney General shall make default in filing any pleading in any action or proceeding instituted by Petition of Right within the prescribed time, the Petitioner may apply to the Court or a Judge on motion for an order that the Petition be taken as confessed, pursuant to the provision in that behalf contained in the Petition of Rights Act, Canada, 1875, or for an order giving him liberty to proceed as if the Attorney General had filed a statement in answer, traversing or denying the case made by the Petition, and upon either of such orders being made, the case may thenceforth proceed accordingly.

83. If the Attorney-General Petitioner or Plaintiff does not deliver a reply or demurrer, or any party does not deliver any subsequent pleading, or a demurrer, within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and the statements of fact in the pleading, last delivered shall be deemed to be admitted.

84. In case the Attorney General Petitioner or Plaintiff shall not deliver a reply or demurrer or any subsequent pleading or a demurrer within a month after the period allowed for that purpose shall have expired, the Defendant instead of applying for an order for trial, may apply to the Court or a Judge to dismiss the action with costs for want of prosecution, and on the hearing of such application the Court or Judge may order the action to be dismissed accordingly, or may make such other order on such terms as to the Court or Judge shall seem just.

85. Any party may be relieved against any default under any of these Rules, by the Court or a Judge, upon such terms as to costs or otherwise as such Court or Judge may think fit.

Discovery and Inspection

86. After the defence is filed any Plaintiff and any Petitioner in a Petition of Right, and any Defendant other than the Crown or the Attorney-General may, at the instance of the opposite party, and without order, be examined for the purposes of discovery before the Registrar or before some other officer of the court specially appointed for that purpose, or before a Judge, if so ordered by the Court or a Judge.

87. Any departmental or other officer of the Crown may by order of the Court or a Judge be examined at the instance of the party adverse to the Crown in any action for the same purposes and before the same officers or before the Court or a Judge, if so ordered.

88. If any party to an action be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in its own name or the name of any officer or other person, any member or officer of such corporation, company or body, may at the instance of any adverse party in the action and without order be examined for the purposes of discovery before the same officers

in the two next preceding orders mentioned, or before a Judge, if so specially ordered by the Court or a Judge.

89. The attendance of a party, officer or other person for examination under the three next preceding Rules, may be enforced by writ of subpoena ad testificandum in the same manner as the attendance of witnesses for examination at the trial of an action is to be enforced.

90. Such parties or officers, or other persons liable to examination, may be compelled to produce books, documents, and papers by a writ of subpoena duces tecum.

91. Parties, officers, or other persons called upon to submit to examination under the preceding rules shall be entitled to be paid the same fees as witnesses subpoenaed to give evidence at the trial of an action.

92. Any person liable to examination for purposes of discovery under any of the foregoing rules, being without the jurisdiction, may by order of a Judge be called upon to answer upon oath written interrogatories for the like purpose, and within such time as may be fixed by the order of the Judge.

93. If any person examined or interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court or a Judge for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or answer further, either by affidavit or *viva voce* examination, as the Judge may direct.

94. It shall be lawful for the Court or a Judge, at any time during the pendency of any action or proceeding, to order the production by any party thereto, or by any officer of the Crown, upon oath, of such of the documents in his possession or power relating to any matter in question in such action or proceeding, as the Court or Judge shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

95. Any party may, without filing any affidavit, apply to a Judge for an order directing any other party to the action, or any officer of the Crown, to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question in the action.

96. The affidavit to be made by a party or officer of the Crown against whom such order as is mentioned in the last preceding rule has been made, shall specify which, if any, of the documents therein mentioned, he objects to produce, and it may be in the Form in Schedule I hereto, with such variations as circumstances may require.

97. Every party to an action or other proceeding shall be entitled, at any time before or at the hearing thereof, by notice in writing, to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his Attorney, Solicitor or Agent and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or proceeding, unless he shall satisfy the Court that such document relates only to his own title, he being a Defendant to the action, or that he had some other sufficient cause for not complying with such notice.

98. Notice to any party to produce any documents referred to in his pleading or affidavits shall be in the Form in Schedule K hereto.

99. The party to whom such notice is given shall, within *two days* from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in Rule 97, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his solicitor, Attorney or Agent at Ottawa, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice may be in the Form in Schedule L hereto, with such variations as circumstances may require.

100. If the party served with notice under Rule 97 omits to give such notice of a time for inspection, or objects to give inspection, the party desiring it may apply to a Judge for an order for inspection.

101. Every application for an order for inspection of documents shall be to a Judge. And except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party or of an officer of the Crown.

102. If the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court or a Judge may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action, or that for any other reason it is desirable that any issue or question in dispute in the action should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

103. If any party or officer of the Crown fails to comply with any subpoena or order for *viva voce* examination, to answer interrogatories, or for discovery or inspection of documents, he shall be liable to attachment. He shall also, if a Plaintiff or Petitioner in a Petition of Right, be liable to have his action dismissed for want of prosecution, and, if a Defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party examining or interrogating may apply to the Court or a Judge for an order to that effect, and an order may be made accordingly.

104. Service of an order for discovery or inspection made against any party on his attorney, solicitor, or agent shall be sufficient service to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order.

105. If at any trial of an action, or issue, any part of any examination, or any one or more of the answers of the opposite party to interrogatories shall be read the whole of the examination or answers shall be considered as being in evidence.

Admissions.

106. Any party to an action may give notice, by his own statement or

otherwise, that he admits the truth of the whole or any part of the case stated or referred to in the statement of claim, defence, or reply of any other party.

107. Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the action may be unless at the hearing or trial the Court certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is in the opinion of the taxing officer, a saving of expense.

108. A notice to admit documents may be in the Form in Schedule M hereto.

109. An affidavit of the solicitor or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents, and annexed to the affidavit, shall be sufficient evidence of such admissions.

Inquiries and Accounts.

110. The Court or a Judge may, at any stage of the proceedings in a cause or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought for or some special issue to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner.

Questions of Law.

111. The parties may, after the Information, Petition of Right or Statement of Claim has been filed, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference, whether of fact or law, which might have been drawn therefrom if proved at a trial.

112. If it appear to the Court or a Judge, either from the statement of claim or defence or reply or otherwise, that there is in any action a question of law, which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, the Court or Judge may make an order accordingly, and may direct such question of law to be raised for the opinion of the Court, either by special case or in such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed.

113. Every special case shall be printed by the Attorney General or Petitioner, in the same form and manner as hereinbefore provided with reference to pleadings, and shall be signed by Counsel for all parties, and shall

be filed by the Attorney General or Petitioner. Printed copies for the use of the Court shall be delivered by the party printing the same at the time of setting down the case for argument.

114. No special case in an action to which a married woman, infant, or person of unsound mind is a party shall be set down for argument without leave of the Court or a Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such married woman, infant, or person of unsound mind, are true

115. Either party may enter a special case for argument by delivering to the proper officer a præcipe, in the Form in Schedule N hereto, and also if any married woman, infant, or person of unsound mind be a party to the action, producing a copy of the order giving leave to enter the same for argument.

Order for Trial and Juries.

116. When any action or suit shall be ripe for trial or hearing, a Judge may, on application of any party and after summons served on all other parties to the suit, fix the time and place of trial or hearing, and may direct when and in what manner and upon whom notice of trial or hearing together with a copy of the Judge's order is to be served, and such notice and order shall be forthwith served accordingly.

117. If there are in any of the several classes of cases in the next preceding order mentioned, any issues of fact to be tried by a jury, the Judge shall at the same time and upon the same application order the issue of a writ of *venire facias* pursuant to Sec. 65 of the said Act.

118. All trials of issues of fact in the Exchequer Court, shall be deemed to be trials at the bar of the said Court and not at *nisi prius*.

Notice of Trial and Trial.

119. No notice of trial shall be countermanded except by consent or by leave of the Court or a Judge, which leave may be given subject to such terms as to costs as may be just.

120. In case the Judge is unable from any cause to attend on the day fixed for the trial of an issue the Sheriff may adjourn the sitting of the Court from day to day until the Judge attends.

121. If, when an action is called on for trial the Attorney-General, Plaintiff or Petitioner appears, and the Defendant does not appear, then the Attorney General Plaintiff or Petitioner may prove his claim as far as the burden of proof lies upon him.

122. If, when an action is called on for trial, the Defendant appears and the Attorney-General, Plaintiff or Petitioner does not appear, the Defendant shall be entitled to judgment dismissing the action.

123. The Judge may, if he thinks it expedient for the interests of justice, postpone or adjourn the trial for such time, and upon such terms, if any, as he shall think fit.

124. Upon the trial of an action the Judge may at, or after such trial, direct that judgment be entered for any or either party, as he is by law entitled to upon the findings, and either, with or without leave to any party

to move, to set aside, or vary the same, or to enter any other judgment upon such terms, if any, as he shall think fit to impose, or he may direct judgment not to be entered then, and leave any party to move for judgment. No judgment shall be entered after a trial, without the order of a Judge.

125. The officer present at the trial shall enter all such findings of fact as the Judge may direct to be entered, and the directions, if any, of the Judge as to judgment, and the certificates, if any, granted by the Judge, in a book to be kept for the purpose.

126. If the Judge shall direct that any judgment be entered for any party absolutely the certificate of the officer to that effect shall be a sufficient authority to the Registrar to enter judgment accordingly.

127. If the Judge shall direct that any judgment be entered for the party subject to leave to move judgment shall be entered accordingly upon the production of the officer's certificate.

128. Where after a trial of issues of fact it appears to the Judge who has tried the issues that there ought to be further enquiry and investigation as to accounts or like matters not comprised in the issues, and which cannot be conveniently enquired into at a trial before a Judge with or without a jury, the Judge may direct a preliminary judgment to be entered referring the action to a Judge in Chambers or to the Registrar or some other officer of the Court and either directing that final judgment be entered according to the result of the reference, or reserving the case for further consideration after the report before final judgment.

129. The party who gives notice of trial shall furnish for the use of the Judge, *four days* before the trial, a printed copy of the pleadings, issues and order for trial.

Copy of Judge's Notes.

130. Immediately after the trial of any action or issues by a Judge alone, or by a Judge with a jury, the Registrar shall cause a copy of the Judge's notes of the evidence to be made, and after careful examination of the same he shall cause such copy to be filed with the other papers in the cause.

Evidence Generally.

131. In the absence of any agreement between the parties, and subject to the provisions contained in the 63rd Section of the said Act, which requires that issues of fact shall be tried according to the laws of the Province in which the cause originated, including the laws of evidence, and subject also to these rules, the witnesses at the trial of any action shall be examined *vivâ voce*, and in open Court, but subject to the said provisions of the said Act, the Court, or a Judge, may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing or trial on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in Court ought for some sufficient cause to be dispensed with, be examined *vivâ voce* or by interrogatories before a Commissioner or other officer of the Court provided that where it appears to the Court or Judge that the other party *bonâ fide*, desires the production of a witness for cross-examination

and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

132. Upon any motion, petition or summons, evidence may be given by affidavit, but the Court or a Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

133. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory motions on which statements as to his belief with the grounds thereof may be admitted. The costs of every affidavit, which shall unnecessarily set forth matters of hearsay or argumentative matter or copies or extracts from documents shall be paid by the party filing the same.

134. The Court or a Judge may, in a cause where it shall appear necessary for the purposes of justice, make any order for the examination upon oath before any officer of the Court, or any other person or persons duly authorized to take or administer oaths in the said Court, and at any place, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms, if any, as the Court or a Judge may direct.

135. Any person making an affidavit to be used in any action may be required to appear before the Registrar, or any other person specially appointed for that purpose, to be cross-examined thereon. The attendance of such person may be enforced by Subpœna *ad testificandum*. Any person served with a subpœna for such purpose shall be entitled to the same fees as a witness at a trial. *Two clear days*, notice of such cross-examination is to be given by the cross-examining party to the opposite party.

136. Affidavits are invariably to be drawn in the first person, and in numbered paragraphs, and no costs are to be taxed for any affidavits not so drawn.

137. Affidavits to be used in support of any motion or application are to be filed when the order *nisi* or summons is moved or applied for, or, if the motion is to be made upon notice, before notice of motion is served.

Motion for New Trial.

138. A party desirous of obtaining a new trial of any cause in which a verdict has been found by a jury, or by a Judge without a jury, must apply for the same to the Court by motion for an order calling upon the opposite party to show cause at the expiration of *eight days* from the date of the order, or so soon after as the case can be heard, why a new trial should not be directed. Such motion shall be made within *ten days* after the trial, or within such extended time as the Court or a Judge may allow.

139. A copy of such order shall be served on the opposite party within *four days* from the time of the same being made.

140. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, unless in the opinion of the Court some substantial wrong or miscarriage has been thereby occasioned in the trial of the action; and if it appear to the Court that such wrong or miscarriage affects part only of the matter in controversy, the

Court may give final judgment as to part thereof, and direct a new trial as to the other part only.

141. A new trial may be ordered on any question in an action, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question.

142. An order to show cause shall be a stay of proceedings in the action, unless the Court shall order that it shall not be so as to the whole or any part of the action.

Motion for Judgment.

143. After the pleadings are closed, any party to the cause may apply to the Court or a Judge upon due notice of such application to the opposite party for an order dispensing with trial, and permitting the cause to be set down forthwith on motion for judgment with liberty to prove documents and facts by affidavits on the motion for judgment, and the Court or a Judge may grant such application if it appear to them that no seriously controverted question of fact is likely to arise.

144. Except where by the Act or by these Rules it is provided that judgment may be obtained in any other manner, the judgment of the Court shall be obtained by motion for judgment.

145. Where at the trial of an action the Judge has ordered that any judgment be entered subject to leave to move, the party to whom leave has been reserved shall set down the action on motion for judgment, and give notice thereof to the other parties within the time limited by the Judge in reserving leave, or if no time has been limited within *fourteen days* after the trial, the notice of motion shall state the grounds of the motion and the relief sought, and that the motion is pursuant to leave reserved.

146. Where at the trial of an action, the Judge abstains from directing any judgment to be entered, the Attorney-General, Plaintiff, or Petitioner may set down the action on motion for judgment. If he does not so set it down, and give notice thereof to the other parties within *fourteen days* after the trial, any defendant may set down the action on motion for judgment, and give notice thereof to the other parties.

147. When at the trial of an action, a preliminary judgment has been directed to be entered ordering a reference to a Judge in Chambers, or to the Registrar or some other officer of the Court, any party may set the action down on motion for judgment at any time after the lapse of *fourteen days* from the filing of the report of the Judge, Registrar or other officer, if in the meantime no notice of appeal from the report shall have been given.

148. Where, at the trial of an action before a jury, the Judge has directed that any judgment be entered, any party may without any leave reserved move to set aside such judgment and enter any other judgment, on the ground that the judgment directed to be entered is wrong by reason of the Judge having caused the finding to be entered wrongly with reference to the finding of the jury upon the question or questions submitted to them.

149. Where, at the trial of an action, the Judge has directed that any judgment be entered, any party may without any leave reserved move to set aside such judgment, and to enter any other judgment on the ground that upon the finding as entered the judgment so directed is wrong.

150. On every motion made under either of the last two preceding rules, the order shall be an order to show cause and shall be returnable in *eight days*. The motion shall be made within *fourteen days* after the trial or within such extended time as a Court or Judge may allow.

151. Where issues have been ordered to be tried or issues or questions of fact to be determined in any manner, the Attorney-General, Plaintiff or the petitioner may set down the action on motion for judgment as soon as such issues or questions have been determined. If he does not so set it down and give notice thereof to the other parties within *fourteen days* after his right to do so has arisen, then after the expiration of such *fourteen days* any defendant may set down the action on motion for judgment and give notice thereof to the other parties.

152. Where issues have been ordered to be tried or issues or questions of fact to be determined in any manner, and some only of such issues or questions of fact have been tried or determined, any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary, or renders it desirable that the trial or determination thereof should be postponed, may apply to the Court or Judge for leave to set down the action on motion for judgment, without waiting for such trial or determination. And the Court or Judge may, if satisfied of the expediency thereof, give such leave, upon such terms, if any, as shall appear just and may give any directions which may appear desirable as to postponing the trial of the other questions of fact.

153. No action shall, except by leave of the Court or a Judge, be set down on motion for judgment after the expiration of *one year* from the time when the party seeking to set down the same first became entitled so to do.

154. Upon a motion for judgment, or for a new trial, the Court may, if satisfied that it has before it all the materials necessary for finally determining the questions in dispute, or any of them, or for awarding any relief sought, give judgment accordingly, or may, if it shall be of opinion that it has not sufficient materials before it to enable it to give judgment, direct the motion to stand over for further consideration, and direct such issues or questions to be tried or determined, and such accounts and inquiries to be taken and made as it may think fit; and so soon as the issues are tried, or the report filed, as the case may be, the motion may be brought on again for further consideration on *ten days'* notice by any party, and any application for a new trial of the issues to alter the entry of the findings of the Judge or Jury, at the trial of the issues, or vary or refer back the report of the Judge, Registrar, or other officer, or to reverse the findings therein contained, shall come on and be heard at the same time as the further consideration of the motion for judgment: Provided at least *eight days'* notice of such application shall have been given.

155. Any party to an action may at any stage thereof apply to the Court or a Judge for such order as he may, upon any admissions of fact in the pleadings, be entitled to, without waiting for the determination of any other question between the parties. The foregoing Rules shall not apply to such applications, but any such application may be made by motion, so soon as the right of the party applying to the relief claimed has appeared from the pleadings. The Court or a Judge may, on any such application,

give such relief, subject to such terms, if any, as such Court or Judge may think fit.

Entry of Judgment.

156. Every judgment shall be entered by the proper officer in the book to be kept for the purpose. An office copy of the judgment stamped with the seal of the Court shall be delivered to the party entering the same. The forms in Schedule O may be used with such variations as circumstances may require.

157. Where any judgment is pronounced by the Court or a Judge in Court, the entry of the Judgment shall be dated as of the day on which such judgment is pronounced and the judgment shall take effect from that date.

158. Any judgment of non-suit, unless the Court or a Judge otherwise directs shall have the same effect as a judgment upon the merits for the defendant; but, in any case of mistake, surprise or accident, any judgment of non-suit may be set aside on such terms as to payment of costs or otherwise, as to the Court or a Judge shall seem just.

References.

159. Where any cause or matter or any question in any cause or matter is referred to the Registrar or other officer of the Court, he shall, unless otherwise directed by the Court or a Judge, proceed with the hearing of the reference *de die in diem* in a similar manner as in actions tried by a Judge and jury.

160. Subject to any order to be made by the Court or Judge ordering the same, evidence shall be taken upon a reference before the Registrar or other officer of the Court, and the attendance of witnesses may be enforced by *subpœna* in the same manner, as nearly as circumstances will admit, as at trials before a Judge.

161. Subject to any such order as last aforesaid, the Registrar or other officer of the Court, shall have the same authority in the conduct of any reference as a Judge of the Court, when presiding at any trial before him.

162. Nothing in these rules contained shall authorize the Registrar or any officer of the Court to commit any person to prison, or to enforce any order by attachment or otherwise.

163. The Registrar or other officer of the Court may, before the conclusion of any trial before him or by his report under the reference made to him, submit any question arising therein for the decision of the Court, or state any facts specially with power to the Court to draw inferences therefrom, and in any such case the order to be made on such submission or statement, shall be entered as the Court may direct, and the Court shall have power to require any explanations or reasons from the Registrar or other officer of the Court and to remit the cause or matter, or any part thereof for further enquiry to the same or any other officer of the Court.

164. The report of a Judge, or the Registrar, or other officer of the Court to whom a reference has been made, shall be filed as soon as possible after it is signed, and shall become absolute and non-appealable if not appealed against within *fourteen days* after service of notice of the filing of the same.

165. Within *fourteen days* after service of the notice of the filing of any

report, any party may, by a motion of which at least *eight days'* notice is to be given, appeal to the Court against any report, and upon such appeal motion, the Court may reverse the findings of the report or vary or refer it back for further consideration to the Judge, Registrar or other officer of the Court, as the case may be.

Execution.

166. No execution can issue on a judgment against the Crown for the payment of money. Where in any proceeding by information by the Attorney General, there may be a judgment against the Crown directing the payment of money for costs, or otherwise, a Judge may, on the application of the party entitled to the money, certify to the Minister of Finance, the tenor and purport of the judgment, and such certificate shall be by the Registrar sent to or left at the Office of the Minister of Finance.

167. A judgment or order for the payment of money against any party to a suit other than the Crown may be enforced by writs of *feri facias* against goods *feri facias* against lands or sequestration.

168. A judgment for the payment of money into Court may be enforced by writ of Sequestration.

169. A judgment for the recovery of or the delivery of possession of land may be enforced by writ of Possession.

170. A judgment for the recovery of any property other than land or money may be enforced—

By writ for delivery of the property

By writ of attachment

By writ of sequestration.

171. A judgment requiring any person to do any act other than the payment of money or to abstain from doing anything may be enforced by writ of attachment or by committal.

172. No writ of attachment or other writ or process against the person is to issue to compel the payment of money.

173. In these rules the term "writ of execution" shall include writs of *feri facias* against goods and against lands, sequestration and attachment and all subsequent writs that may issue for giving effect thereto. And the term "issuing execution against any party" shall mean the issuing of any such process against his person or property as under the preceding rules shall be applicable to the case.

174. No writ of execution shall be issued without the production to the officer by whom the same should be issued of the judgment upon which the writ of execution is to issue, or an office copy thereof shewing the date of entry. And the officer shall be satisfied that the proper time has elapsed to entitle the judgment creditor to execution.

175. No writ of execution shall be issued without a *præcipe* being filed for that purpose.

176. Every writ of execution shall bear date of the day on which it is issued.

177. In every case of execution the party entitled to execution may levy the interest, poundage fees and expenses of execution over and above the sum recovered.

178. Every writ of execution shall be indorsed with the name and resi-

dence of the Attorney or Solicitor who issues the same and if issued through an Agent the name and residence of the Agent also.

179. Every writ of execution for the recovery of money shall be endorsed with a direction to the Sheriff or other officer to whom the writ is directed to levy the money really due and payable and sought to be recovered under the judgment stating the amount, and also to levy interest thereon if sought to be recovered at the rate of six per cent per annum from the time when the judgment was entered up.

180. Every person to whom any sum of money or any costs shall be payable under a judgment, shall immediately after the time when the judgment was duly entered, be entitled to sue out one or more writ or writs of *feri facias* against goods and against lands to enforce payment thereof, subject nevertheless as follows :

(a.) If the judgment is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period.

(b.) The Court or Judge at the time of giving judgment, or the Court or a Judge afterwards, may give leave to issue execution before, or may stay execution until any time after the expiration of the periods hereinbefore prescribed.

181. A writ of execution if unexecuted shall remain in force for one year only from its issue, unless renewed in the manner hereinafter provided ; but such writ may, at any time before its expiration, by leave of the Court or a Judge, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, either by being marked with a seal of the Court bearing the date of the day, month, and year of such renewal, or by such party giving a written notice of renewal to the Sheriff, signed by the party or his attorney, and bearing the like seal of the Court ; and a writ of execution so renewed shall have effect, and be entitled to priority, according to the time of the original delivery thereof.

182. The production of a writ of execution, or of the notice renewing the same, purporting to be marked with such seal as in the last preceding Rule mentioned, showing the same to have been renewed, shall be sufficient evidence of its having been so renewed.

183. As between the original parties to a judgment, execution may issue at any time within six years from the recovery of the judgment.

184. Where six years have elapsed since the judgment, or any change has taken place by death or otherwise in the parties entitled or liable to execution, the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly. And such Court or Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in an action may be tried. And in either case such Court or Judge may impose such terms as to costs or otherwise as shall seem just.

185. Every order of the Court or a Judge, whether in an action, cause or matter, may be enforced in the same manner as a judgment to the same effect, and it shall in no case be necessary to make a Judge's order a rule or order of the Court before enforcing the same.

186. Any person not being a party in an action who obtains any order, or in whose favour any order is made, shall be entitled to enforce obedience to such order by the same process as if he were a party to the action, and any person not being a party in an action against whom obedience to any judgment or order may be enforced shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party to the action.

187. Any party against whom judgment has been given may apply to the Court or a Judge for a stay of execution or other relief against such judgment upon the ground of facts which have arisen too late to be pleaded and the Court or Judge may give such relief and upon such terms as may be just.

Writs of fieri facias

188. Writs of *feri facias* against goods and lands may be in the forms given in Schedule P and shall be executed according to the exigency thereof.

189. Any interest equitable as well as legal of an execution debtor in goods or lands may be sold under writs of *feri facias*.

190. Lands shall not be sold under a writ of *feri facias* until after the lapse of *six months* from the seizure by the Sheriff, or other officer.

191. Lands and goods respectively shall be bound for the purposes of execution from the date of the delivery of writs of *feri facias* to the Sheriff or other officer.

192. Upon the return of the Sheriff or other officer, as the case may be, of "lands or goods on hand for want of buyers" a writ of *venditioni exponas* in the form in Schedule Q may issue to compel the sale of the property seized.

193. In the mode of selling lands and goods and of advertising the same for sale, the Sheriff or other officer is, except in so far as the exigency of the writ otherwise requires or as is otherwise provided by these orders, to follow the laws of his Province applicable to the execution of similar writs issuing from the highest Court or Courts of original jurisdiction therein.

194. A writ of attachment shall be executed according to the exigency thereof.

195. No writ of attachment shall be issued without the order of the Court or a Judge.

Writ of Sequestration.

196. When any person is by any judgment or by any order of the Court or Judge directed to pay money into Court or to do any other act in a limited time, and after due service of such judgment or order refuses or neglects to obey the same according to the exigency thereof, the person prosecuting such judgment or order shall at the expiration of the time limited for the performance thereof be entitled without obtaining an order for that purpose to issue a Writ of Sequestration against the estate and effects of such disobedient person.

197. Such Writ of Sequestration may be in the form given in Schedule R hereto, and it shall have the same effect as the Writ of Sequestration in

use in Her Majesty's High Court of Justice, in England has, and the proceeds of the Sequestration subject to the provisions of these Rules, may be dealt with in the same manner as the proceeds of Writs of Sequestration are dealt with according to the practice in that behalf in use in Her Majesty's said High Court of Justice.

198. The Court or a Judge may, in its or his discretion, order the proceeds of any writ of sequestration whether the same be lands goods or other property to be sold and the money produced by the sale to be paid into Court

Writ of Possession.

199. A judgment that the Crown or any other party do recover possession of any land may be enforced by Writ of Possession in manner heretofore used in actions of ejectment in the Superior Courts of Common Law, in England.

200. Where by any judgment any person therein named is directed to deliver up possession of any lands to the Crown or some other party, the party prosecuting such judgment shall without any order for that purpose be entitled to sue out a Writ of Possession on filing an affidavit shewing due service of such judgment, and that the same has not been obeyed.

Writ of Delivery.

201. A writ for delivery of any property other than land or money may be in the form in Schedule S hereto and may be issued and enforced in the manner heretofore in use in actions of *detinue* in the Superior Courts of Common Law in England.

Change of Parties by Death, &c.

202. An action shall not become abated by reason of the marriage, death, or insolvency of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*.

203. In case of the marriage, death, or insolvency or devolution of estate by operation of law, of any party to an action, the Court or a Judge may, if it be deemed necessary for the complete settlement of all the questions involved in the action, order that the husband, personal representative, assignee, or other successor in interest, if any, of such party be made a party to the action, or be served with notice thereof in such manner and form as hereinafter prescribed, and on such terms as the Court or Judge shall think just, and shall make such order for the disposal of the action as may be just.

204. In case of an assignment, creation, or devolution of any estate or title *pendente lite*, the action may be continued by or against the person to or upon whom such estate or title has come or devolved.

205. Where by reason of marriage, death or insolvency, or any other event occurring after the commencement of an action, and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the action, it becomes necessary or desirable that any person not already a party to the action

should be made a party thereto, or that any person already a party thereto should be made a party thereto in another capacity, an order that the proceedings in the action shall be carried on between the continuing parties to the action, and such new party or parties may be obtained *ex parte* on application to the Court or a Judge, upon an allegation of such change, or transmission of interest or liability, or of such person interested having come into existence.

206. An order so obtained shall, unless the Court or Judge shall otherwise direct, be served upon the continuing party or parties to the action, or their attorneys or solicitors, and also upon each such new party, unless the person making the application be himself the only new party, and the order shall from the time of such service, subject nevertheless to the next two following Rules, be binding on the persons served therewith, and every person served therewith who is not already a party to the action shall be bound to file his defence thereto within the same time and in the same manner as if he had been served with a copy of the Information, Petition of Right, or Statement of Claim, as the case may be.

207. Where any person who is under no disability or under no disability other than coverture, or being under any disability other than coverture, but having a guardian *ad litem* in the action, shall be served with such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within *twelve days* from the service thereof.

208. Where any person being under any disability other than coverture, and not having had a guardian *ad litem* appointed in the action, is served with any such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within *twelve days* from the appointment of a guardian or guardians *ad litem* for such party, and until such period of *twelve days* shall have expired such order shall have no force or effect as against such last-mentioned person.

Interlocutory Orders as to Injunctions, Receivers and payment into Court.

209. An injunction may be granted or a receiver appointed by an interlocutory order of the Court or a Judge in all cases in which it shall appear to the Court or Judge to be just or convenient that such order should be made, and any such order may be made *ex parte* or on notice, and either unconditionally or upon such terms and conditions as the Court or Judge shall think just.

210. The Court or a Judge may make an order for the preservation or interim custody of the subject-matter of the litigation, or may order that the amount in dispute be paid into Court or otherwise secured.

211. Any party directed by any order of the Court or a Judge to pay money into Court must apply at the office of the Registrar for a direction so to do, which direction must be taken to the Ottawa Branch or agency of the Bank of Montreal, and the money there paid to the credit of the cause or matter, and after payment the receipt obtained from the Bank must be filed at the Registrar's Office.

212. If money is to be paid out of Court an order of the Court or a Judge must be obtained for that purpose upon notice to the opposite party.

213. Money ordered to be paid out of Court is to be so paid upon the cheque of the Registrar, countersigned by a Judge.

Motions and other applications to the Court.

214. A Judge shall sit in open Court every Monday, or on the next juridical day in the event of any Monday being a holiday, for the purpose of hearing the argument of demurrers, special cases, motions for judgment appeals from the reports of the Registrar or other officer of the Court, and all other motions, applications and business, which cannot be transacted by a Judge in Chambers except the trial or hearing of causes.

215. Demurrers, special cases, motions for judgment, ordinary motions on notice and Petitions are to be set down to be heard at least *two days* before the hearing, unless the Court or a Judge shall otherwise order, and are to be called on in the order in which they may be set down.

216. The last foregoing rule is not to apply to *ex parte* motions.

217. Where by these Rules any application is authorized to be made to the Court or a Judge in an action, such application, if made to a Judge in Court, shall be made by motion.

218. No rule or order to show cause shall be granted in any action, except in the cases in which an application for such rule or order is expressly authorized by these Rules.

219. Unless authorized by these Rules to be made *ex parte* motions are to be on notice, unless the Court or a Judge shall think fit in the interests of justice to dispense with notice.

220. Unless the Court or Judge give special leave to the contrary there must be at least *two clear days* between the service of a notice of motion and the day named in the notice for hearing the motion.

221. If on the hearing of a motion or other application the Court or Judge shall be of opinion that any person to whom notice has not been given ought to have or to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court or Judge may think fit to impose.

222. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court or Judge shall think fit.

223. The Attorney-General Plaintiff or Petitioner shall, without any special leave, be at liberty to serve any notice of motion or other notice, or any petition or summons upon any Defendant, who, having been duly served with the information or petition of right, has not answered within the time limited for that purpose.

224. The Attorney General, Plaintiff or Petitioner may, by leave of the Court or a Judge to be obtained *ex-parte*, serve any notice of motion upon any Defendant along with the Information, Petition of Right or Statement of claim or at any time after service of the Information, Petition of Right or Statement of Claim and before the time limited for the answer of such Defendant.

Applications at Chambers.

225. Every application to a Judge at Chambers authorized by these rules shall be made in a summary way by summons.

226. Any Judge may rescind his own order by an order made in Chambers.

Costs.

227. Costs may be awarded against the Crown, subject to the provisions of these rules, that no execution shall issue on a judgment or order for payment of money by the Crown.

228. The costs of and incident to all proceedings in the said Exchequer Court, shall be in the discretion of the Court or Judge, as the case may be, provided that where any action or issue is tried by a Jury, the costs shall follow the event unless upon application made at the trial for good cause shewn the Judge before whom such action or issue is tried, or the Court shall otherwise order.

229. All costs between party and party shall be taxed pursuant to the tariff contained in Schedule T to be annexed to these orders and such taxation shall be by the Registrar in person, and shall not be delegated to any other officer of the Court except in the unavoidable absence of the Registrar from illness or any other cause, when the taxation shall be before the officer appointed by the Court to perform the Registrar's duties in his necessary absence.

230. Witnesses shall be entitled to be paid the fees and allowances prescribed by Schedule U annexed hereto.

Appeals to the Supreme Court.

231. No decision or ruling at the trial or hearing of a cause shall be appealed from directly to the Supreme Court, but the party dissatisfied therewith must first seek relief by moving before the Exchequer Court as hereinbefore provided, and the appeal shall be from the refusal to grant an order *nisi* or, if an order shall have been granted, from the decision of the Court on the motion to make the same absolute.

232. The case, in an appeal from the Exchequer Court to the Supreme Court, is, in case the parties differ about the same, to be settled by a Judge upon *one day's* notice of an appointment for that purpose to be served by the party intending to appeal on the opposite party, and it is to contain the pleadings and evidence or such parts thereof as the Judge may think material, and also a copy of any written judgment pronounced by the Judge whose decision is appealed from; or in case no written judgment has been pronounced a note showing the grounds and reasons for the decision.

Agents and Service of Papers.

233. There is to be kept in the Registrar's Office a book of the said Exchequer Court, to be called the Agent's Book, in which may be entered the names of persons residing at the City of Ottawa, and entitled to practice in the said Court who are to act as agents for Attorneys and Solicitors residing in other places.

234. Any party to any action or suit or other proceeding not residing at the said City of Ottawa, who appears in person, may also enter in the said book some place within the limits of the said city at which papers may be left for service upon him and which shall be called his address for service.

235. In case the Attorney or Solicitor, in any action, suit or other proceeding, shall have neglected to enter the name of an agent, or a party

appearing in person to enter an address for service, in the said book, papers not requiring personal service may be served by affixing them in the office of the Registrar in some conspicuous place therein.

Writs.

236. All Writs shall be prepared in the office of the Attorney-General or by the Attorney or Solicitor suing out the same, and the name and address of the Attorney or Solicitor suing out the same shall be endorsed on such Writ, and every such Writ shall before the issuing thereof be sealed at the office of the Registrar and a *præcipe* therefor shall be left at the said office, and thereupon an entry of issuing such Writ, together with the date of sealing and the name of the Attorney or Solicitor suing out the same, shall be made in a book to be kept at the Registrar's Office for that purpose, and all Writs shall be tested of the day, month and year when issued.

237. Subpœnas to witnesses may be in the form set forth in Schedule V to these orders annexed.

238. All Writs in Revenue causes are to be tested with the date on which they issue.

239. Any Writ, may at any time be amended by order of the Court or Judge upon such conditions and terms as to costs and otherwise as may be thought just, and any amendment of a writ may be declared by the order authorizing the same to have relation back to the date of its issue or to any other date or time.

Recognizances.

240. Recognizances in Revenue and all other causes may be taken and acknowledged before any Commissioner or other officer having authority to take recognizances of bail in the Supreme and Exchequer Courts.

241. Recognizances may be prepared on paper.

Officers of the Court.

242. The Registrar is to keep his office open each day except Sundays and holidays, from 10 in the forenoon until 4 o'clock in the afternoon, and all officers of the Court are to be in attendance during those hours.

243. During vacation the Registrar's office is to be kept open each juridical day from 11 in the forenoon to 12 o'clock, noon.

244. There are to be kept in the Registrar's office all books necessary and proper for recording and entering all proceedings in Court and Chambers, and in which all judgments, reports, orders, rules, filings of pleadings, and other papers, are to be entered.

245. The Registrar shall have power in revenue causes to do any ministerial act which the Queen's Remembrancer in Her Majesty's late Court of Exchequer in England could have done in the same class of cases, and when any proceedings in such cases in the said Court of Exchequer were required to be taken in the office of the Queen's Remembrancer the same proceedings may be taken here in the office of the Registrar.

246. Sheriffs and Coroners shall be entitled to the fees and poundage prescribed by Schedule W to be hereto annexed.

Vacations.

247. There shall be a vacation at Christmas, commencing on the 15th of December, and ending on the 8th of January.

248. The long vacation shall comprise the months of July and August.

Computation of Time.

249. In all cases in which any particular number of days not expressed to be clear days, is prescribed by the foregoing rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless such last day shall happen to fall on a Sunday, or a day appointed by the Governor General for a public fast or thanksgiving, or any other legal holiday or non-judicial day, as provided by the statutes of the Dominion of Canada.

250. Where by these rules, the time for doing any act or taking any proceeding is limited by months, not expressed to be lunar months, such time shall be computed by calendar months.

251. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding, Sunday, or a day appointed as aforesaid for a public fast or thanksgiving, or any other non-judicial day or legal holiday, shall not be reckoned in the computation of such limited time.

252. Where the time for doing any act or taking any proceeding expires on a Sunday, or other day on which the offices are closed, and by reason thereof, such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

253. No pleadings shall be amended or delivered in the long vacation, unless directed by the Court or a Judge.

254. The time of the long vacation shall not be reckoned in the computation of the times appointed or allowed by these rules for filing, amending or serving any pleading, unless otherwise directed by the Court or a Judge.

255. The Court or a Judge shall have power to enlarge or abridge the time appointed by these rules, or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

General Provisions.

256. No proceeding in the said Court shall be defeated by any merely formal objection.

257. Non-compliance with any of these rules shall not render the proceedings in any action void unless the Court or a Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court or Judge shall think fit.

258. In proceedings to which the provisions of Rule 1 shall not apply and which are not otherwise provided for by these rules, the practice in use in Her Majesty's High Court of Justice in England shall be had recourse to and followed as nearly as may be.

Interpretation.

259. In the preceding rules the term "a Judge" means any Judge of the said Exchequer Court transacting business out of Court.

260. In the preceding rules the following words have the several meanings hereby assigned to them over and above their several ordinary meanings, unless there be something in the subject or context repugnant to such construction, that is to say :

- (1) Words importing the singular number, include the plural number, and words importing the plural number include the singular number.
- (2) Words importing the masculine gender include females.
- (3) The word "party" or "parties" and words "Plaintiffs" and "Defendants" include a body politic or corporate, and also Her Majesty and Her Majesty's Attorney General.
- (4) The word "Affidavit" includes affirmation.
- (5) The words "Revenue Causes" include the several classes of cases mentioned in section 58 of the said Act.
- (6) The words "Non-revenue Causes" include the several classes of cases mentioned in Section 59 of the said Act as well as a Petition of Right.
- (7) The word "Petitioner" used alternatively with the words "Attorney General" and Plaintiff shall mean the Petitioner in any Petition of Right.
- (8) The word "action" shall include a suit or proceeding by information by the Attorney General as well as a Petition of Right or an action by a private suitor.

Rules applicable to causes, in which cause of action has arisen in Province of Quebec.

261. The foregoing rules numbered 1 to 5, both inclusive, 9 to 13 both inclusive, 27, 29, 78, 79, 86 to 105 both inclusive, 111 to 117 both inclusive, 120, 125, 129 to 132 both inclusive, 134, 135, 166, 209 to 220 both inclusive, 227 to 257 both inclusive, 259 and 260 shall be applicable to actions in which the cause of action shall have arisen in the Province of Quebec.

Dated this fourth day of March, 1876.

(Signed),

"

"

"

"

"

WM. B. RICHARDS, C. J.,

W. J. RITCHIE, J.,

S. H. STRONG, J.,

J. T. TASCHEREAU, J.,

T. FOURNIER, J.,

W. A. HENRY, J.

SCHEDULE A.

*(Form of Information.)**(Rule No. 6.)*

CANADA : }
 PROVINCE OF } IN THE EXCHEQUER COURT OF CANADA.

The Queen, on the information of the Attorney General for the
 Dominion of Canada,

Filed 10th March, 1876.

Plaintiff,

AND

JOHN SMITH,

Defendant.

To the Honorable the Chief Justice and Justices of the Exchequer
 Court of Canada.

The information of The Honorable Her Majesty's
 Attorney General for the Dominion of Canada, on behalf of Her Majesty.

SHEWETH AS FOLLOWS :

*(Here state facts concisely.)**Claim.*

The Attorney General, on behalf of Her Majesty the Queen, claims as
 follows :

Signature,

E. B.,
Attorney General.

8

SCHEDULE B.

*(Rule 7.)**(Form of Statement of Claim in Action on Postmaster's Bond.)*

CANADA. }
 Province of } IN THE EXCHEQUER COURT OF CANADA.

Filed 10th March, 1876.

The Postmaster-General,

Plaintiff :

and

A. B., C. D. and E. F.,

*Defendants.**Statement of Claim.*

1. The Defendants, by their bond bearing date the
 day of A. D. 18 , became jointly and severally bound

to our Sovereign Lady the Queen, in the sum of \$ _____, to be paid by the said Defendants to our said Lady the Queen, 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, shews such balance of \$900 to be due and unpaid by the said A. B.; and, by virtue of the "Post Office Act of 1875," the Plaintiff is entitled to demand judgment against the Defendants 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.

SCHEDULE C.

(*Endorsement on Information or Statement of Claim.*)

e (Rule 14.)

Notice to the Defendant within named.

You are required to file with the Registrar of the Exchequer Court of Canada at his office at the City of Ottawa, your Plea, answer, exception or demurrer or otherwise make your defence to the within information or statement of claim (*as the case may be*) within _____ from the service hereof. If you fail to file your plea, answer, exception or demurrer 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 shewing, and if this notice is served upon you personally you will not be entitled to any further notice of the future proceedings in the cause.

NOTE.—This Information (*or statement of claim*) is filed by A. B. &c., Her Majesty's Attorney General for the Dominion of Canada, on behalf of Her Majesty (*or by* _____ of the City of Ottawa, Solicitor, for the within-named plaintiff)

SCHEDULE D.

*(Advertisement in case of a
Defendant not to be found.)*

(Rule 24.)

CANADA : }
PROVINCE OF } 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, demurrer, exception or otherwise make your defence pursuant to the requirements of the above order, the Court or Judge may direct that the case shall thereafter proceed as though you had filed a plea, answer or defence, traversing and denying the allegations contained in the information *(or statement of claim)* filed in this cause, and the action will thereafter proceed accordingly.

SCHEDULE E.

Forms of Pleadings.

(Form of Information of Intrusion.)

(Rule No. 32.)

CANADA : }
PROVINCE OF } IN THE EXCHEQUER COURT OF CANADA.

Filed 10th March, 1876.

The Queen, on the information of the Attorney General for the
Dominion of Canada.

Plaintiff,

AND

JOHN SMITH,

Defendant.

To the Honorable the Chief Justice and Justices of the Exchequer
Court of Canada.

The information of the Honorable _____, Her Majesty's
Attorney General for the Dominion of Canada, on behalf of Her Majesty,

SHEWETH AS FOLLOWS :

1. That certain lands and premises situate in the City of Ottawa, in the County of Carleton and Province of Ontario, and being, &c., on the first day of October, in the year of Our Lord 1875, and long before were and still ought to be in the hands and possession of Her Majesty the Queen.

2. That the Defendant on the said first day of October, in the year aforesaid in and upon the possession of the said Lady the Queen, 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 Her Majesty the Queen, 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 first day of October, A.D., 1875, till possession shall be given.

(Signed),

Form of QUI TAM Action.

CANADA: }
Province of Ontario. } IN THE EXCHEQUER COURT OF CANADA.

Filed 10th March, 1876.

A. B. who sues as well for the Queen as for himself

Plaintiff.

and

C. D.

Defendant.

Statement.

1. By Section 3 of the Act passed by the Legislature of Canada in the 37th year of Her Majesty's reign, intituled: "An Act to amend the Law relating to Bills of Exchange and Promissory Notes, and the Stamps thereon," it is enacted, among other things, as follows: ["*Set forth the material part of the Section.*"]

2. The said C. D. who was and is a broker within the meaning of the said Section, received on or about the first day of February A. D. 1876 from one E. F. in payment of a debt due by the said E. F. to him the said C. D., a certain Bill of Exchange drawn by one G. H. upon and accepted by one K. L., for the sum of \$300, and bearing date the twentieth day of January, A.D., 1876, which said Bill of Exchange was not duly stamped; and at the time the said C.D. so received the said Bill of Exchange he knew the same not to be duly stamped, but he did not on receiving the same affix thereto and cancel the proper stamps within the meaning of the Act thirty-first Victoria, chapter nine.

Claim.

The Plaintiff claims

1. Judgment against the said defendant for the said sum of \$500, and costs of suit.

[TITLE.]

Statement of Defence.

1. The Bill of Exchange mentioned in the statement of claim, was duly

stamped when received by the said C. D. [*Add any other grounds of defence —each one to be stated concisely in a separate paragraph.*]

[TITLE.]

Reply.

1. The Plaintiff joins issue upon the Defendant's statement of defence
(*Add any other grounds of reply in concise separate paragraphs.*)

SCHEDULE F.

(*Form of Admission of Defence.*)

(*Rule 48.*)

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
PROVINCE OF }

Between

A. B.,

Plaintiff,

AND

C. D.,

Defendant.

The Informant (or Plaintiff) confesses the defence stated in the paragraph of the Defendant's statement of defence [*or of the Defendant's further statement of defence.*]

SCHEDULE G.

(*Form of Demurrer.*)

(*Rule 67.*)

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
PROVINCE OF }

Between

A. B.,

Plaintiff,

AND

C. D.,

Defendant.

The Defendant [Plaintiff] demurs to [the Plaintiff's statement of complaint, *or* Defendant's statement of defence, *or* of set off, *or* of counter claim] [*or to so much of the Plaintiff's statement of complaint as claims* , *or* as alleges as a breach of contract the matters mentioned in paragraph. *or as the case may be,*] and says that the same is bad in law, on the ground that [*here state grounds of demurrer.*]

SCHEDULE H.

(Form of *Præcipe* for setting down Demurrer.)

(Rule 78.)

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
 PROVINCE OF }

A. B., vs. C. D.,

Enter for the argument the demurrer of _____ to
 X. Y., Solicitor for the Plaintiff (or &c)

SCHEDULE I.

(Rule 96.)

(Form of *affidavit* as to documents.)

Canada, }
 Province of } 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 hereto.

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 on (*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, solicitor or agent, 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.

Sworn, &c.

SCHEDULE K.

(Form of notice to produce documents.)

(Rule 98.)

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
 PROVINCE OF }

A. B., vs. 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. Describe documents required.
 Dated day of , 18

X. Y.,
 Solicitor to the

To Z., Solicitor for

SCHEDULE L.

(Form of notice to inspect documents.)

(Rule 99.)

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
 PROVINCE OF }

A. B., vs. C. D.

Take notice that you can inspect the documents mentioned in your notice of the day of A.D., (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., on the ground that (*state the ground.*)

Dated day of , 18

X. Y.,
 Solicitor for

To Z., Solicitor for

SCHEDULE M.

(Form of notice to admit documents.)

(Rule 108.)

Canada,	}	In the Exchequer Court of Canada.
Province of	}	A.B. vs. C.D.

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 evidence in this cause.

Dated, &c.

To E.F., solicitor (or agent) for Plaintiff (or Defendant).

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.
Deed of covenant between A. B. and C. D., first part, and E. F., second part.....	January 1, 1848.
Indenture of lease from A. B. to C. D.....	February 1, 1848.
Indenture of re-lease between A. B., C. D., first part, &c.	February 2, 1848.
Letter, defendant to plaintiff.....	March 1, 1848.
Policy of insurance on goods by ship "Isabella," on voyage from Oporto to London.....	December 3, 1847.
Memorandum of agreement between C. D., captain of said ship, and E. F.....	January 1, 1848.
Bill of Exchange for £100, at three months, drawn by A. B. on and accepted by C. D., endorsed by E. F. and G. H.....	May 1, 1849.

COPIES.

Description of Document.	Dates.	Original or Duplicate served, sent or delivered, when, how and by whom.
Register of baptism of A. B., in the parish of X.....	January 1, 1848...	
Letter, plaintiff to defendant.....	February 1, 1848..	Sent by general post, February 2, 1848.
Notice to produce papers.....	March 1, 1848.....	Served March 2, 1848, on defendant's attorney, by E. F., of
Record of judgment of the Court of Queen's Bench, in an action, J. S., vs. J N.....	Trinity Term, 10 Vic.	

SCHEDULE N.

(Form for setting down special case.)

(Rule 115.)

CANADA :
PROVINCE OF

} IN THE EXCHEQUER COURT OF CANADA.

Between A. B.,
and*Plaintiff,*

C. D., and others,

Defendants.

Set down for argument the special case filed in this action on the day of

X. Y, *Solicitor for*

Dated, &c.

SCHEDULE O.

FORMS OF JUDGMENT.

1. *Default of Defence in case of Liquidated Demand.*

CANADA : PROVINCE OF	}	IN THE EXCHEQUER COURT OF CANADA.
		Between A. B.
		and
		C. D., and E. F.,
		<i>Plaintiff,</i>
		<i>Defendants.</i>

30th November, 1876.

The Defendants not having filed any statement of defence, it is this day adjudged that the Plaintiff recover against the said Defendants \$ [and costs, to be taxed.]

2. *Judgment in Default of Defence in action for recovery of land.*

[TITLE, &C.]

30th November, 1876.

No defence having been filed to the information herein, it is this day adjudged that the Plaintiff recover possession of the land in the said information mentioned.

3. *Judgment in Default of Defence after assessment of Damages.*

[TITLE, &C.]

30th November, 1876.

The Defendants not having filed a statement of defence, and the cause having been referred to _____ to assess the damages which the Plaintiff was entitled to recover, and the said _____ having, by his report dated the _____ 1876, reported that the said damages have been assessed at \$ _____ it is adjudged that the Plaintiff recover \$ _____ [and costs, to be taxed.]

4. *Judgment at Trial by Judge without a Jury.*

CANADA : PROVINCE OF	}	IN THE EXCHEQUER COURT OF CANADA. day of _____ 18
		Between A. B.,
		and
		C. D., E. F., and G. H.,
		<i>Plaintiff,</i>
		<i>Defendants.</i>

This action coming on for trial [the _____ day of _____ and] this day, before _____ in the presence of Counsel for Plaintiff and the Defendants [or, if some of the Defendants do not appear, for the Plaintiff and the Defendant, C. D.,

none appearing for the Defendants E. F. and G. H., although they were duly served with notice of trial, as by affidavit of _____, filed the _____ day of _____, appears], upon hearing read the examination of the Defendants, C. D., E. F. and G. H., taken in the cause, the admission in writing, dated _____, and signed by [Mr. _____, the Solicitor for] the Plaintiff A. B., and by [Mr. _____, the Solicitor for] the Defendant, C. D., the affidavit of _____, filed the _____ day of _____; the affidavit of _____ filed the _____ day of _____; the evidence of _____, taken on their oral examination at the trial, and an exhibit marked X, being an indenture dated, &c., and made between [parties], and what was alleged by Counsel on both sides: This Court doth declare, &c.,

And this Court doth order and adjudge, &c.

5. *Judgment after Trial by a Jury.*

[TITLE, &C.]

15th November, 1876.

The action having, on the 12th and 13th November, 1876, been tried before the Honorable Mr. Justice _____ and a jury of the County of _____, and the jury having found [*state findings as in officer's certificate*], and the said Mr. Justice _____ having ordered that judgment be entered for the Plaintiff for \$ _____ [and costs of suit or as the case may be]; therefore it is adjudged that the Plaintiff recover against the Defendant \$ _____ and [\$ _____ for his costs of suit] or that the Plaintiff recover nothing against the Defendant, and that the Defendant recover against the Plaintiff [\$ _____ for his costs of defence, or as the case may be].

6. *Judgment upon Motion for Judgment.*

[TITLE, &C.]

30th November, 1876.

This day, before _____, Mr. X., of Counsel for the Plaintiff [or as the case may be], moved on behalf of the said [*state judgment moved for*], and the said Mr. X., having been heard of Counsel for _____, and Mr. Y. of Counsel for _____, the Court adjudged

SCHEDULE P.

(Form of Writ of Fieri Facias)

(Rule 188.)

Canada, }
 Province of } In the Exchequer Court of Canada.

Between A. B., *Plaintiff,*

and

C. D. and others, *Defendants.*

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith :

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 six 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 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 _____ 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 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 Honorable William Buell Richards, Chief Justice of our Exchequer Court of Canada, at Ottawa, this _____ day of _____ in the year of our Lord one thousand eight hundred and _____ and in the _____ year of our reign.

The Præcipe for a writ of fieri facias may be in the following form which can be adapted for other writs also.

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
 PROVINCE OF }
 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 \$ 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.]

SCHEDULE Q.

(*Form of Writ of Venditioni Exponas.*) (Rule 192.)

CANADA : } IN THE EXCHEQUER COURT OF CANADA.
 PROVINCE OF }
 Between A. B., *Plaintiff,*
 and
 C. D., and others, *Defendants.*

Victoria, by the grace of God, of the United Kingdom of Great Britain and
 Ireland, Queen Defender of the Faith :

To the Sheriff 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 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. Therefore, we being desirous that the said
 A. B. should be satisfied, his money and interest aforesaid, 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 that 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 Honorable William Buel Richards, Chief Justice of our
 Exchequer Court of Canada, at Ottawa, the day of
 in the year of Our Lord one thousand eight hundred and
 and the year of our reign.

SCHEDULE R.

(Form of Writ of Sequestration.)

(Rule 197.)

Canada,	}	In the Exchequer Court of Canada.	
Province of		Between A. B.,	<i>Plaintiff,</i>
		and	
		C D. and others,	<i>Defendants</i>

Victoria, &c.

To

• *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
187 , 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 days and hours, go to 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.

SCHEDULE S.

(Form of Writ of Delivery.)

(Rule 201.)

Canada, }
 Province of } In the Exchequer Court of Canada.

Between A. B.,

Plaintiff,

and

C. D. and others,

Defendants.

Victoria, by the grace of God, of the United Kingdom of Great Britain
 and Ireland, Queen, Defender of the Faith.

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., lately in our Exchequer Court of Canada recovered against C. D. [*or 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 distraint 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, immediately after the execution hereof, and have you there then this writ.

Witness the Honorable William Buell Richards, Chief Justice of our Exchequer Court of Canada, at Ottawa, the _____
 _____, in the year of our Lord one thousand eight hun-
 dred and _____, and the _____ year of our reign.

The like, but instead of a distress until the chattel is returned, commanding the Sheriff to levy on the defendant's goods the assessed value of it.

[Proceed as in the preceding form until the *, and then thus:] And we further command you that if the said chattels cannot be found in your bailiwick, of the goods and chattels of the said C. D., in your bailiwick you cause to be made _____ [*the assessed value of the chattels*], and in what manner you shall have executed this our writ make appear to us at our Exchequer Court of Canada, at Ottawa, immediately after the execution hereof, and have you there then this writ.

Witness, &c.

SCHEDULE T.

(Rule 229.)

EXCHEQUER TARIFF.

FEES AND CHARGES TO BE ALLOWED TO ATTORNIES AND SOLICITORS IN THE TAXATION OF COSTS BETWEEN PARTY AND PARTY.

Instructions.

	\$	c.
For informations, statements of claim and petitions,	5	
For special cases, answers, examinations, demurrers, pleas and exceptions,	5	
For amended or supplemental information, and petition when such amendment not occasioned by the error or default of the plaintiff,	2	
For brief, for moving, for injunction,	2	
For interrogatories and for <i>viva voce</i> examinations of parties or witnesses,	2	
For special petitions in interlocutory matters,	2	
For special affidavits,	1	
For brief in suits by information, statement of claim or petition of right in cause coming on for trial or hearing	2	
To defend proceedings commenced by information, petition, or statement of claim,	5	
For instructions for order to revive or add parties,	2	
<i>The preparation of pleadings and other documents.</i>		
Drawing informations, petitions or statement of claim not exceeding twenty folios,	5	
Drawing defence, answer or other pleading not specially mentioned, not exceeding five folios in length,	2	
For examining and correcting the proof of any pleading or affidavits or other papers required to be printed, per folio,	10	
Preparing and filing joinder of issue,	1	
Suggestion as to the death of parties and the like,	1	50
Affidavit of service of information, statement of claim or petition,	1	50
Special affidavit not exceeding five folios,	1	50
Every bill of costs, not exceeding five folios,	2	
Copies of a notice of motion, order or certificate to serve, per folio,	20	
Copies of all other documents or papers, per folio,	10	
Notice of motion,	1	50
Certificate to appoint guardian <i>ad litem</i> ,	1	50
Summons to attend Judge's Chambers,	1	50
Advertisements to be signed by Registrar, not exceeding five folios in length,	1	50
Every writ of course or final process, not exceeding five folios,	2	
For every folio beyond the number provided for in any case, and for drawing or amending every other proceeding, notice, petition, or paper in a cause requiring to be drafted, not herein specially provided for, per folio, of necessary matter,	25	

Perusals.

	\$	c.
For perusing the print of an information, petition, statement of claim or amended information, petition, or statement of claim, not exceeding 20 folios,	1	00
For every folio exceeding 20 folios,		5
For perusing an amended information, petition, or statement of claim when amended in writing,	1	00
The same rates as above for perusing answers in print or amended answer in writing,		
To the Attorney or Solicitor for perusing interrogatories, not exceeding 20 folios,	1	00
For every folio exceeding 20 folios,		5
For perusing all special affidavits filed by opposite party, and examinations at the same rate,		
For perusal of copy of supplemental statement and copy of order to revive, each,	1	00
In cases where pleadings or papers are printed, the amount actually and properly paid the printer is to be allowed, not exceeding per folio,		30

Attendances.

To inspect or produce for inspection documents pursuant to notice to admit or order for inspection,		
To examine and sign admissions,		
On taxation of costs,		
To obtain or give undertaking to defend, each,	1	00
On a reference, or examination of witnesses or parties, per hour,		
On a summons at Judge's Chambers,		
On consultation or conference with counsel,		
In court on motion, per hour,		
In court on demurrer, special petition or application adjourned from Judge's Chambers, when set down for hearing or likely to be heard,		
On hearing or trial of any cause or matter, per hour,		
To hear judgment, when same adjourned,		
For order made at Judge's Chambers, and to get same entered,		
To settle draft of any judgment, decree, or order,		
To pay money into court,	Each	2 00
Every other proper attendance,		50

Services.

For service on a party or witness such reasonable charges and expenses as may be properly incurred,

Oaths and Exhibits.

To the Commissioner for oath,	25
To the Attorney or Solicitor for preparing each exhibit,	25
The Commissioner for marking each exhibit,	10

Counsel.

	\$	c.
Fee on drawing and settling pleadings, and advising on evidence,	5	00
Fee on motion in court, up to	10	
Fee on argument on demurrer not to exceed	20	
Fee with brief on trial of issues or hearing to	40	
(No more than two counsel fees to be taxed without an order of a judge),		
Fee on motion for judgment to	20	
(The above fees to counsel may be increased by order of the Court or of a Judge),		

Disbursements.

Besides the Registrar's Fees, reasonable charges shall be allowed to Attorneys and Solicitors for necessary disbursements and postage on services of notices, motions, subpoenas, translations, printing of the same, copies, and other incidental proceedings,

In cases of special reference where by order of the Judge or Court, the Enquiry is to be proceeded with at some place other than Ottawa, the Referee shall be allowed travelling expenses not to exceed *per diem*,

For drafting report on reference, per folio,	4	
<i>Per diem</i> allowance during the time employed on the reference	10	30
(To be increased by order of the Court or a Judge),		

When at the request of the parties with the assent of the Judge, or when by order of the Judge, an examination of witnesses is taken by a short-hand reporter, the expenses of so taking such examination, not to exceed per folio 30 cents including copy, in long-hand to file in the case may be taxed as costs between party and party,

In actions under \$400, a deduction of one third of the amount of the fees (other than disbursements) above allowed shall be made by the taxing officer—unless otherwise ordered by the Court or a Judge.

Where the proceedings are carried on according to the practice of Her Majesty's Superior Court in the Province of Quebec, and where the foregoing tariff may not provide for or be applicable to any such proceedings, the fees shall be taxed according to the tariff now in force in the said Superior Court.

SCHEDULE U.

(Rule 230.)

Fees and allowances to Witnesses.

	\$	c.
To witnesses residing within three miles of the Court per diem,	1	
To witnesses residing over three miles from the Court,	1	25
Barristers, Attorneys and Physicians, when called upon to give evidence in consequence of any professional services rendered by them, or to give professional opinions, per diem,	4	
Engineers and Surveyors, when called upon to give evidence of any professional services rendered by them, and to give evidence depending upon their skill or judgment, per diem,	4	
If the witnesses attend in one cause only, they will be entitled to the full allowance. If they attend in more than one cause, they will be entitled to a proportionate part in each cause only. The travelling expenses of witnesses over ten miles shall be allowed, according to the sum reasonably and actually paid, and in no case shall exceed one shilling per mile one way.		

SCHEDULE V.

(Form of Subpœna.)

(Rule 237)

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, **QUEEN**, Defender of the Faith, &c.

To

GREETING:

WE command you [and every of you], that, all excuses ceasing, you do personally be and appear before the Justices of our Exchequer Court of Canada at _____ on the _____ day of _____, at _____ o'clock in the _____ noon, [or _____, an examiner or other officer authorized to take the testimony of witnesses in the cause hereafter mentioned, at such times and places as he in writing shall appoint], to testify the truth according to your knowledge in a certain cause depending in Our said Exchequer Court of Canada, wherein _____ is petitioner or _____ plaintiff, [or _____ and others are plaintiffs], and _____ and others or another is [or are] defendant [or defendants] on the part of the _____ [and that you then and there bring with you _____], and hereof fail not at your and produce _____ peril.

Witness, &c.

SCHEDULE W.

(Rule 246.)

EXCHEQUER COURT OF CANADA.

SHERIFF'S TARIFF.

The following fees and allowances shall be taken and received by the Sheriff in suits in the Exchequer Court of Canada :

	\$	c.
Every warrant to execute any process mesne, or final, directed to the Sheriff, when given to a Bailiff,		75
Arrest, when amount does not exceed \$200,	2	00
“ “ “ \$400,	4	00
“ “ over \$400,	6	00
Bail or other Bond,	2	00
Assignment of the same,	1	00
Service of Process, <i>Scire Facias</i> , Writ of Revivor, Information, or Statement of Claim, each defendant (no fee for affidavit of service in such cases to be allowed unless service made or recognized by the Sheriff),	1	50
Serving other pleadings, Subpœnas, Rules, Notices or other papers (besides mileage),		75
For each <i>additional</i> party served,		50
For each Summoner on Writ of <i>Scire Facias</i> per day, to be paid by Sheriff,	1	00
Receiving, filing, entering and endorsing all Writs, Informations, Statements, Pleadings, Rules, Notices or other papers each,		25
Return of all Process and Writs, (except Subpœna), Informations, Statements, Pleadings, Rules, Notices or other papers,		50
Every search, not being a party to a cause or his Attorney,		30
Certificate of result of such search, when required (a search for a writ against lands of a party, shall include sales under writ against same party and for the then last six months),		75
Fee on striking jury,	2	50
Serving each Juror (besides mileage @ 13c. per mile),		50
Returning panel of Jurors,	1	00
Keeping and checking pay list of Jurors' attendance, in each case	1	00
Every Jury sworn or cause tried before a Judge,	1	00
Poundage on executions and on writs in the nature of executions where the sum made shall not exceed \$1,000, six per cent.		
When the sum is over \$1,000 and under \$4,000, three per cent., when the sum is \$4,000 and over, one and a half per cent., in addition to the poundage allowed up to \$1,000, exclusive of mileage, for going to seize and sell, and except all disbursements necessarily incurred in the care and removal of property.		
Schedule taken on execution or other process, including copy to defendant, not exceeding 5 folios,	1	00
Each folio above 5,		10
Drawing advertisements when required by law to be published in the <i>Official Gazette</i> or other newspaper, or to be posted up in a Court House or other place, and transmitting same, in each suit	1	50

	\$	c.
Every necessary notice of sale of goods, in each suit,		75
Every notice of postponement of sale, in each suit,		25
The sum actually disbursed for advertisements required by law to be inserted in the <i>Official Gazette</i> or other newspaper.		
Executing writ of possession besides mileage,	6	00
Bringing up prisoner on attachment or Habeas Corpus, besides travel, @ 20c. per mile,	1	50
Actual and necessary mileage from the Court House to the place where service of any process paper or proceeding is made, per mile,		13
Seizing estate and effects on attachment against debtor,	3	00
Removing or retaining property, reasonable and necessary disbursements and allowances to be made by order of the Court or a Judge.		
Presiding or attendance on execution of Writ of Enquiry or under any Writ of Escheat, or other Writ of a like nature,	5	00
Summoning each Juror in such case,		25
Bailiff's fee summoning Jury, mileage per mile,		13
Hire of room, if actually paid, not to exceed \$2 per day.		
Mileage from the Court House to the place where writ executed, per mile,		13
Drawing bond to secure goods seized, if prepared by Sheriff,	1	50
Every letter written (including copy) required by party or his Attorney respecting writs or process, when postage prepaid,		50
Drawing every affidavit when necessary and prepared by Sheriff,		25
Giving possession of lands, exclusive of mileage and assistance,	5	00
All necessary disbursements to Surveyors and others for surveying the lands and giving possession, to be allowed to the Sheriff.		

Coroners.

The same fees shall be taxed and allowed to Coroners for services rendered by them in the service, executions and return of process, as allowed to Sheriffs for the same services and above specified.

Tariff of Fees to Crier.

The following fees shall be taxed to the Crier of the said Court :

Calling every case with or without a Jury,	50
Swearing each witness or constable,	15
Proclamation and calling parties connected with proceedings other than witnesses or constables, each person,	25
On each inscription for <i>enquete</i> in actions not contested,	50

SCHEDULE X.

The following fees shall be paid to the Registrar of the Exchequer
Court of Canada :

	\$	c.
On sealing every Writ (besides filings),	2	
On certifying every office copy of information or statement of claim and affixing Seal of the Court when necessary,	2	
Filing every Writ, Affidavit or other proceeding or paper not specially provided for,		10
Amending every Writ or other proceeding or paper,		30
Every ordinary Rule or order,		50
Special Rule or order not exceeding 6 folios,	1	
Each additional folio,		25
Every Judgment and entering the same,	2	
Taxing every Bill of Costs, and giving allocatur (besides filings),	1	
Every Reference, Enquiry, Examination or other special matter referred to the Registrar, for every meeting not exceeding one hour,	1	
Every additional hour or less,	1	
For every Report made by the Registrar upon such Reference, &c.,	1	
Upon payment of money into Court, every sum under \$200,	1	
On \$200 to \$400,	2	
On \$400,	4	
A Percentage on money over \$400 paid in under pleadings at the rate of 1 per cent,		
Receipt for money in margin of Answer,		25
Every other certificate required from Registrar (including any necessary search), and Seal of the Court when necessary,	1	
Exemplification or Office Copy of proceedings, per folio,		10
Every search, if within one year,		20
Every search, if for one year and within two years,		25
Every search for papers, or a general search in one cause,		50
Every search in any book,		25
Every Affidavit, Affirmation or Oath administered by Registrar,		25
Entering satisfaction of Judgment and filing satisfaction piece,		50
Every Commission for Order for examination of witnesses,	1	50
On filing every information, statement or Petition of Right,	2	

	\$	c.
Entering every cause for trial when cause tried by a Jury,	5	
When tried without a Jury,	2	
Entering or setting down a cause for hearing on demurrer, special case or petition of right,	2	
Every verdict taken, nonsuit, Jury discharged or cause withdrawn,	1	
Every rule or order :—		
Special not exceeding six folios,	1	
Every additional folio,		25
Common,		50
Every fiat or summons		50
Every enlargement on application to Judge in chambers or on return of summons or otherwise,		25
Every appointment for taxation of costs or otherwise, made by Registrar,		25
Every appointment made by a Judge,		50
On each deposition of every witness taken in writing, in contested cases, for every 100 words,		10
For each deposition taken in writing <i>ex parte</i> ,		50
For adjourning <i>enquete</i> in writing,		50
For filing answers to same,		50
For taking down in writing answers to interrogatories upon articulated facts,	1	
If over ten folios of 100 words, for each additional folio,		10
On each opposition for payment or claim above \$1,000,	2	50
Above \$400, but not above \$1,000,	1	60
Of \$400 or under,	1	40
On each opposition to secure charges to annul, or to withdraw :—		
In actions above \$1,000,	2	50
In actions above \$400, and not above \$1,000,	1	60
In actions of \$400 or under,	1	50
For preparing judgment of distribution,	8	00
For drawing <i>proces verbal</i> upon improbation,	2	50
For preparing Jury List.	2	00

4th March, 1876.

(Signed), WM. B. RICHARDS, C. J.
 “ W. J. RITCHIE, J.
 “ S. H. STRONG, J.
 “ J. T. TASCHEREAU, J.
 “ T. FOURNIER, J.
 “ W. A. HENRY, J.

OTTAWA:
PRINTED BY MACLEAN, ROGER & Co., WELLINGTON STREET.
