

# 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.

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 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: Title page is a photoreproduction.

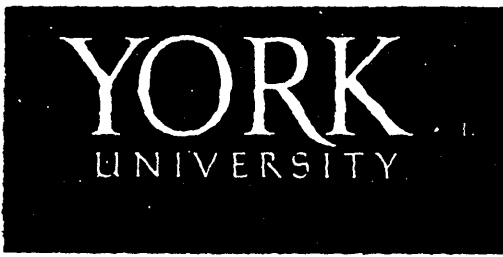
- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print 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.

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



LAW LIBRARY



GENERAL RULES

OF THE

SUPREME COURT

IN THE

PROVINCE

OF

NEW-BRUNSWICK,

---

FREDERICTON :

JOHN SIMPSON, PRINTER TO THE KING'S MOST EXCELLENT  
MAJESTY.

—  
MDCCCXXXIV.

W. G. C. C.

KE

8876

ZAB

N4S

1834

# GENERAL RULES, &c.



*Easter Term, 25th Geo. III.*

ANNO DOMINI 1785.

1st. It is ordered, that all the Process, Records, Rolls, and Judgments of this Court, be made on parchment, according to the usage of the Court of King's Bench in England.

2nd. That the Bill issued out of the Court of King's Bench in England, commonly called the Bill of Middlesex, be the first process *ad Respondendum*, where it is to be executed by the Sheriff of the County where the Court sits; and that the first process, going into other Counties, shall be a common *Capias*, in form of the *alias* or *Latitat*, leaving out the words "as before we have commanded you," except where it is actually the *Alias Capias*; the recital of the issuing and returning a Bill being now supposed unnecessary.

3rd. That the Sheriffs indorse their returns on all Processes delivered to them by the day of their returns respectively, and deliver them to the Attornies who issued the same. That they attend the Court every Term, by themselves or their under-Sheriffs, and that they appoint Deputies respectively, who shall always reside in the district in which the Court sits, and as near as convenient to the Court House; who shall always attend the Court in the absence of the High Sheriff: and that all Writs, Rules, and Orders delivered to such Deputy, shall be of like effect as if served upon the High Sheriff.

4th. That every Attorney of this Court enter the return, and file the Writ or Process, in all actions which have not been agreed, and in which they intend to proceed; and shall make a docket of all such returns and rules, and on the last day of the term shall deliver the same to the Clerk of the Court; and shall pay to the Clerk his own fees, as well as those of the Judges and Crier, in such actions.

5th. That there be allowed twenty days to all Defendants to put in Special Bail; and the like number to all Plaintiffs to except against such Bail, from the time of due notice of Bail put in.

6th. That all Attornies file their Declarations on or before the last day of the Term next ensuing the return and filing the Writ, or be *non pross'd*.

7th. That all Defendants have twenty days to plead from the day of the notice in writing delivered of the filing such Declaration, except where the Defendant is returned in custody; in which case the Defendant shall have twenty days to plead, from the time of serving a copy of the Declaration, and of the rule to plead, to be served on the Sheriff, or Defendant.

8th. That on filing a Declaration in any action, the Plaintiff be entitled to Judgment, if the Defendant doth not plead in twenty days after notice of Declaration being filed in the Clerk's Office, the Rule to plead being first entered; and if the Defendant hath not entered his appearance in such action, the Plaintiff may file a common appearance, and enter an Interlocutory Judgment for want of a Plea as of the preceding term, without any imparlance, and proceed to a Writ of Inquiry as if the same Interlocutory Judgment had been rendered and entered the same preceding Term; and the like proceeding to entry of Judgment and executing Writ of Inquiry, where a Defendant in Custody neglects to plead, pursuant to a rule served on himself, or the Sheriff as aforesaid.

9th. That in all cases, where a Declaration is filed *De Bene Esse*, the Plaintiff shall have the like advantage of an Interlocutory Judgment, on due notice having been given to the Defendant of the filing the Declaration.

10th. That where an Attorney appears for the Defen-

dant a Copy of the Declaration with notice of the Rule to plead shall be served on him, he paying for such Copy at the rate of Six pence per Sheet, and on default of Pleading in twenty days Judgment to be entered, and Writ of Inquiry may be executed as aforesaid, a Plea being first demanded after the said twenty days.

11th. That all notices to be served on Defendants, or the Attornies of either party, shall be deemed well served if left at the dwelling House, or last, or most usual place of his or their lodgings.

12th. That there be eight days exclusive, between the time of serving, and day of appearance in Term, in all actions of Ejectment, where the person to be served with such Declaration lives within the County where the Court sits; and fourteen days when such person lives in any other County.

13th. That there be at least eight days notice of trial, and for Writs of Inquiry, in all Actions where the Defendant lives within the County where the Court sits; and fourteen days notice, if in any other County.

14th. That on exception to Bail, the Bail justify before one of the Judges at his Chambers within two days after notice of exception; or Plaintiff be at liberty to proceed, notwithstanding such Bail given.

15th. That all notices be served on the Attornies for the parties except notices of exception to Bail, which may be served on the Defendant or his Attorney, or on the person who serves the notice of Bail.

*Hilary Term, 26 Geo. III.*

ANNO DOMINI 1786.

### **RULE RESPECTING BAIL.**

ORDERED, That in all Process where an Affidavit is made and filed of the cause of Action, the Sheriffs of the different Counties, at the time of taking the Bail Bond, shall serve the sureties therein with a copy of such process, subscribed with the following notice :

“ A. B.

“ Take notice, that unless special Bail is put in above

by the Defendant in this cause within twenty days after the return of this Process, the condition of the Bail Bond you have entered into will be forfeited;" and upon affidavit made and filed together with a return of the Process by the Sheriff of the service of such copies as aforesaid, the Declaration may be filed *De Bene Esse*, at the return of the Process, with notice to plead in twenty days; and if Defendant puts in special Bail, and doth not plead within time, Judgment may be signed: provided such Declaration be filed in the Clerk's Office with notice thereon within twenty days after the return of the Process.

*Easter Term, 26 Geo. III.*

ANNO DOMINI 1786.

1st. IT IS ORDERED, That upon all Process where no Affidavit is made or filed of the cause of action, the Plaintiff may file or deliver the Declaration *De Bene Esse* at the return of such Process, with notice to plead in twenty days; and if Defendant doth not enter an appearance or file common Bail, and plead within the said twenty days, Plaintiff having first filed common Bail for Defendant, may sign Judgment for want of a Plea, provided that such Declaration be delivered or filed in the Clerk's Office with notice thereon, within twenty days after the return of such Process, and a rule to plead be duly entered.

2nd. That all notices of trial in actions where the Defendant lives within the County where the Court sits be given at least eight days before the first day of the Term, at which such case is to be tried; and fourteen days, if the Defendants lives in any other County.

*Trinity Term, 26 Geo. III.*

ANNO DOMINI 1786.

THE COURT ORDERED, That in causes where Interlocutory Judgments have been signed, and the causes of action appear to be upon complicated accounts, the same shall be referred to a Jury of Inquiry, and Judgment



shall be considered to be entered as of the precedent Term.

*Easter Term, 28 Geo. III.*

ANNO DOMINI 1788.

ORDERED, That in future the Easter and Michaelmas Terms be considered as Terms for bringing causes to issue; and that Trinity and Hilary Terms for the trial of causes.

*Trinity Term, 30 Geo. III.*

ANNO DOMINI 1790.

ORDERED BY THE COURT, That in all actions commenced in this Court by non-residents of this Province, and in which the Plaintiffs are required to give security for the payment of costs, if the said Plaintiffs shall lay the Venue in the County where the Court sits, such security shall be given and entered into in the sum of twenty pounds and no more; and if the Venue is laid in any other County, then in the sum of thirty pounds and no more.

*Michaelmas Term, 31 Geo. III.*

ANNO DOMINI 1791.

ORDERED BY THE COURT, That all Attornies practising in this Court, who are non-residents of Fredericton, or the City of Saint John, do appoint an Agent at one or other of the said places, and give notice to the Clerk or his Deputy of the name of such Agent, and at which of said places he resides; which notice shall be put up in the Clerk's Office; and that all notices, served on such Agents respectively, shall be deemed as proper and legal a service, as if served upon such Attorney.

*Michaelmas Term, 36 Geo. III.*

ANNO DOMINI 1796.

ORDERED, That in future all Special Bail-pieces shall

be filed, as soon after the taking thereof as may be, with the Clerk of the Court.

*Michaelmas Term, 40 Geo. III.*

ANNO DOMINI 1800.

ORDERED, That every Attorney of this Court deliver a regular bill of costs to his Client, or to the Client of the adverse Attorney, as the case may be, before he demands the expences of the Suit ; and all receipts by Attornies from their Clients, without this previous step, will be considered as a breach of this Rule.

*Hilary Term, 45 Geo. III.*

ANNO DOMINI 1805.

IT IS ORDERED, That the Clerk of this Court be in future authorized to deliver blank Writs, signed and sealed, to the several and respective Attornies of this Court, to be by them filled up as occasion may require ; they accounting to the said Clerk therefor, and forthwith forwarding to him proper Præcipes for such of the said Writs as they may from time to time fill up and issue, in the same manner as is practised by the Filacers in England.

*Hilary Term, 47 Geo. III.*

ANNO DOMINI 1807.

ORDERED, That in future the travelling charges, to be taxed in causes at Nisi Prius, be estimated from the place of residence of the Counsel, Attornies, and Clerk of the Circuits, respectively, to the place where the Court sits ; and that the trials of causes in this Court at Fredericton, hereafter be considered as trials Nisi Prius, and travelling charges taxed accordingly, unless in the case of trials at Bar.

*Trinity Term, 49 Geo. III.*

ANNO DOMINI 1809.

ORDERED, That all causes for trial, and all demurers,

Special motions, and arguments be entered with the Clerk on the first day of each Term respectively; and that all causes for trial be noticed for the Term generally; and that the same come on to be tried on the first day of the Term in the order in which they are entered; and that after the Jury causes shall have been tried, Demurrers and other Special matters come on to be argued in the order in which they are entered, otherwise that they stand over to the next Term, unless Special permission be obtained to the contrary.

*Supreme Court, Hilary Term, 50 Geo. 3.*

ANNO DOMINI 1810.

IT IS ORDERED, That the Rolls of all Judgments entered at the several Terms be brought in and filed on or before the first day of the Term next after the Term in which they shall be respectively entered.

That in all cases where blank Writs shall be filled up by the Attornies, the Præcipes and Affidavits for Bail in cases ofailable process be transmitted to the Clerk's Office by the very first opportunity after issuing the Process; and that no Attorney do on any account suffer any blank Writ to go out of his hands to be filled up and issued by any other than an Attorney of this Court—and that no Rule to plead or other proceeding in the cause be had, unless the Præcipe and the Affidavit in cases where an Affidavit is made be duly filed.

That all Judgment Rolls be engrossed upon Parchment in a fair legible hand, with a margin of not less than an inch in breadth and a sufficient space at the top for binding up the same, and at the bottom for numbering the Roll: and that no Roll be received or filed by the Clerk that is not made up in the manner herein directed.

That no Processes be signed or filed by the Clerk which are not engrossed upon Parchment agreeably to the former Rule of this Court in that behalf made.

That the Rule respecting the filing of Dockets and payment of Fees be strictly enforced, and that the Clerk report to the Court any delinquency in this respect without delay.



be found in your Bailiwick, and him safely keep, so that you may have his body before us, at Fredericton, on the Tuesday in next, to answer A. B. of a Plea, wherefore he took the Goods and Chattels of the said A. B. and them unjustly detained against gages and pledges as he saith, and have you there then this Writ. Witness at Fredericton, the day of in the year of our Reign." And shall serve such Defendant personally with a copy of such Process, upon which Copy shall be written an English notice to such Defendant, of the intent and meaning of such service; which notice shall be in the form used in the service of Processes in actions in which no affidavit shall be made and filed of the cause of action; and if such Defendant shall not appear at the return of such process, or within twenty days after such return, the Plaintiff shall be at liberty, upon the usual Affidavit being made and filed of the personal service of such Process, to enter a common appearance or file common Bail for such Defendant, and to proceed thereon as if such Defendant had entered his or her appearance or filed Common Bail.

2. And it is further Ordered, That in all cases in which the Sheriff shall be a party the foregoing Processes shall be directed to the Coroner, as in other cases in which the Sheriff is a party.

J. BLISS,  
WARD CHIPMAN.

The Clerk having, by direction, furnished the Court with a statement of the arrears due from the several and respective Attornies up to Easter Term 1815 inclusive, on account of fees remaining in their hands, due to the Judges, It is Ordered that he forthwith give notice to them respectively that they be prepared to pay to him their respective balances at the ensuing Easter Term in May next, and that hereafter the Rule entered at Easter Term in the year 1785 be strictly and punctually enforced, in order to which the Clerk is further directed not to file any papers nor sign any Processes for any Attorney who shall hereafter neglect to comply with the same Rule.

*At Chambers, Fredericton, }  
26th January, 1816. }*

J. BLISS,  
JOHN SAUNDERS,  
WARD CHIPMAN,

*Hilary Term, 59 Geo. III.*

ANNO DOMINI 1819.

IT IS ORDERED, That the Writs of assistance to the Officers of His Majesty's Customs in this Province, do issue out of this Court, from time to time, according to the practice of the Exchequer in England.

*Michaelmas Term, 59 Geo. III.*

ANNO DOMINI 1819.

ORDERED, That the time for putting in Special Bail, agreeably to the rule made in Easter Term, in the twenty-fifth year of His present Majesty's Reign, be enlarged to thirty days.

*Hilary Term, 60 Geo. III.*

ANNO DOMINI 1820.

**GENERAL RULES.**

1 IT IS ORDERED, That in future, no Attorney of the Court not being an established resident within the Province, be permitted to act as an Attorney of this Court.

2 Whereas by a standing Rule of this Court, made and entered of Easter Term in the twenty-fifth year of His Majesty's Reign, it is Ordered "That every Attorney of this Court enter the return and file the Writs or Process in all actions which have not been agreed, and in which they intend to proceed, and shall make a Docket of all such Returns and Rules, and on the last day of the Term shall deliver the same, with the Writs and Processes in such actions to the Clerk of the Court, and shall pay to the Clerk of the Court his own fees, as well as those of the Judges and Crier in such Actions:" and whereas, notwithstanding the repeated orders of this Court, enjoining a strict and punctual compliance with the said Rule, the same has been in various instances violated and neglected: It is hereby Ordered, that in future, if any Attorney of this Court shall neglect a compliance with the said Rule, in every respect, agreeable to the true intent and meaning thereof, on or before the first day of the Term next after the Term in which such Rule ought to have been complied with, every

such Attorney shall be considered as in contempt of the Court, on account of such neglect of, and disobedience to the said Rule. And the Clerk of this Court is hereby enjoined not to receive or file from, or for, any such Attorney, at any time afterwards, any Writ, Præcipe, Process or any other paper or proceedings whatever, of a date subsequent to the Term in which such Rule ought to have been complied with, until such contempt shall have been purged by a compliance with the said Rule. And the Clerk is further enjoined, on the second day of the Term next after the Term in which the said Rule ought to have been complied with, to prepare, and deliver to the Court, the name or names of all such Attornies as shall be so in contempt as aforesaid.

3. AND IT IS FURTHER ORDERED, That the Clerk of this Court furnish to the several and respective Attornies of this Court, a Copy of this order without delay.

J. BLISS,  
JOHN SAUNDERS,  
WARD CHIPMAN.

*Hilary Term, 2 Geo. IV.*

ANNO DOMINI 1821.

## GENERAL RULE OF CALCULATING INTEREST.

Interest upon Bonds, Debts and other Securities for money, payable with Interest, should be ascertained by adding the Interest to the principal at the time of each payment, and deducting the payment, which is the same thing as first deducting the Interest from the payment, and then giving credit for the Balance on account of principal, and not by charging the Interest upon the whole Bond to the time of last payment and Interest for the Debtor on the several payments from their respective dates, thereby inverting the principle of compound Interest, and charging Interest on his own Debts, when a payment is made of less than the Interest due at the time. Nothing should be credited until a sum is paid equal to the Interest then due, except by endorsing it specially as a sum paid in part of the Interest then due.

JOHN SAUNDERS,  
WARD CHIPMAN,  
J. M. BLISS.

*Hilary Term, 3 Geo. IV.*

ANNO DOMINI 1822.

IT IS ORDERED, That no person producing a Certificate of admission as an Attorney in the Supreme Court of any other Province, Colony, or Island, in His Majesty's dominions, in order to obtain admission and enrollment as an Attorney of this Court, shall be so admitted and enrolled, unless he shall have served a regular apprenticeship of not less than three years at least in the office of some regularly admitted Attorney in the Supreme Court of such Province, Colony, or Island, nor unless he shall produce an authenticated copy of the Certificate of such service, by virtue of which he may have obtained admission as an Attorney in such Province, Colony, or Island, and the same Certificate shall include all the qualifications requisite in that behalf to be included in the Certificates of service as Apprentices to the Law in this Province.

*Hilary Term, 4 Geo. IV.*

ANNO DOMINI 1823.

1 IT IS ORDERED, That hereafter, no person, who shall study the Law in this Province for the purpose of being admitted an Attorney of this Court, shall be so admitted unless he shall have so studied with some Barrister of this Court, for the term of four years if he be a Graduate of any College, or if not such Graduate, for the term of five years: *Provided*, that this Rule shall not extend to any person who shall have commenced his studies under any Barrister or Attorney of this Court before the commencement of the present Term.

2. That no person producing a Certificate of admission as an Attorney of the Supreme Court of any other Province, Colony, or Island, in His Majesty's dominions, in order to obtain admission and enrollment as an Attorney of this Court, shall be so admitted and enrolled, unless he shall have served a regular Apprenticeship in such Province, Colony, or Island, agreeably to the terms prescribed in the foregoing rule for Students at Law in this Province, nor unless he shall produce an authenticated copy of the Certificate of such service, by virtue



of which he may have obtained admission as an Attorney of the Supreme Court of such Province, Colony, or Island, nor unless such Certificate shall include the qualifications as to age and moral character requisite in that behalf to be included in Certificates of service as Apprentices to the Law in this Province.

3. That after the expiration of two years from the time of admission as Attornies, such Attornies may be called to the Bar, provided there appears no just cause to prevent such call.

4. That no person, admitted as an Attorney of this Court, shall, until he be called to the degree of a Barrister, be permitted to wear a Gown, or to make any motion as Counsel in any cause in this Court.

5. That notice of every application, for admission as an Attorney of this Court, be filed with the Clerk of the Pleas on the first day of the Term at which such application may be made, and if no sufficient objection shall appear to the Court, or be made from the Bar during such Term, such applicant shall be admitted and enrolled as an Attorney on the last day of such Term.

6. That no person, under the degree of a Barrister, be hereafter entitled to take a Student for admission as an Attorney.

7. That every Barrister taking a Student for admission as an Attorney shall enter the name of such Student forthwith, with the Clerk of the Pleas of this Court, to be enrolled by him in a Roll to be kept for that purpose, with the date of the commencement of such Student's term of study.

8. That no Student in any Barrister's office shall be permitted hereafter to practice in the name of any Attorney, or otherwise, in any Inferior Court of Common Pleas in this Province.

IT IS FURTHER ORDERED, That the Clerk of this Court furnish to the several and respective Attornies of this Court, a copy of the foregoing orders without delay.

By the Court.

JOHN SAUNDERS,  
WARD CHIPMAN,  
J. M. BLISS,  
EDWARD J. JARVIS.

*Hilary Term, 6 Geo. IV.*

ANNO DOMINI 1825.

ORDERED, That whenever any Attorney of this Court shall be desirous of being called to the Bar as Barrister, he shall make known his wishes, by Petition to the Court, on the first day of the Term—which Petition shall be delivered to the Clerk, and be open for the inspection of the Gentlemen of the Bar, until the sitting of the Court on Thursday following in the same Term, when the Court will determine upon the said Petition.

JOHN SAUNDERS, C. J.  
J. M. BLISS,  
W. BOTSFORD.

*Michaelmas Term, 6 Geo. IV.*

ANNO DOMINI 1825.

Upon reference to the Rule of Hilary Term 45. George 3rd. relating to the delivery of blank Writs to the Attornies of this Court,

It is Ordered, That from and after Hilary Term next, no Attorney of this Court do presume to issue any Writ or Process whatever, unless the same be actually signed and sealed by the proper Officer of this Court; and that the Clerk of the Pleas do forthwith furnish a Copy of this Rule to every Attorney of this Court.

IT IS ORDERED, That the time for delivering or filing Declarations *De Bene Esse*, agreeably to the Rule made in Easter Term in the 26th George III, be enlarged to thirty days.

2. Ordered, that if any person or persons, who are, or who hereafter shall become Bail in this Court for any Defendant, in any action whatever, shall be impleaded by action of Debt upon the recognizance in such Suit acknowledged, such person or persons shall have liberty to surrender such Defendant by the space of twenty entire days next after the return of the Writ of *Capias ad Respondendum* or other Process sued out against such Bail, and upon notice thereof given to the Plaintiff or

his Attorney, in the Suit aforesaid, all further proceedings against such Bail upon the Recognizance aforesaid, shall cease.

JOHN SAUNDERS, *Chief Justice.*

J. M. BLISS,

W. BOTSFORD,

WARD CHIPMAN.

*Hilary Term, 7 Geo. IV.*

ANNO DOMINI 1826.

In order to prevent inconvenience and delay in the trial of causes at *Nisi Prius*,

It is Ordered, that no record of *Nisi Prius* shall be received at any Circuit Court in any County in this Province, unless the same shall be delivered, to be entered with the Clerk of the Circuits, at or before the opening of the Court, on the first day of the sittings, unless the Judge, in his discretion, under special circumstances, shall allow the Clerk to receive a Record, and enter the cause for trial after the time above limited; and that every cause shall be tried in the order in which it shall be so entered, beginning with *Remanets*, unless it shall be made out to the satisfaction of the Judge, in open Court, that there is reasonable cause to the contrary, who thereupon may make such order for the trial of the cause so to be put off, as to him shall seem just.

And it is further Ordered, that a list of all the causes, entered as aforesaid, shall be made by the Clerk of the Circuits, and by him delivered to the Judge as soon as practicable after the entry so made.

Ordered, that the Clerk of the Crown do keep a paper to be called the Crown paper, in which shall be entered demurrers, motions for new trials, and other special matters for argument on the Crown side; and that the Clerk of the Pleas do in like manner keep a paper, to be called the Special paper, in which shall be entered all demurrers, motions for new trials, and other special matters, for argument on the Plea side: such entries to stand on such papers respectively, in the order in which they may be made, with the said respective Clerks; and that all the matters contained in the said papers shall

come on to be argued on the Monday in the second week in each term, in the order in which they are entered, always beginning with the Crown paper.

JOHN SAUNDERS, *Chief Justice.*

J. M. BLISS,

W. BOTSFORD,

WARD CHIPMAN.

*Trinity Term, 7 Geo. IV.*

ANNO DOMINI 1826.

Whereas by the common consent Rule in actions of ejectment, the Defendant is required to confess Lease, Entry, and Ouster, and insist upon his Title only : and whereas in many instances of late years Defendants in ejectment, have put the Plaintiff, after the Title of the Lessor of the Plaintiff has been established, to give evidence that such Defendant was in possession, at the time the Ejectment was brought, of the Premises mentioned in the Ejectment, and for want of such Proof, have caused such Plaintiffs to be non-suited :

And whereas such practice is contrary to the true intent and meaning of such consent Rule, and of the provisions therein contained, for the Defendant's insisting upon the title only : It is therefore Ordered, that from henceforth in every action of Ejectment, the Defendant shall specify in the consent Rule for what premises he intends to defend, and shall consent in such Rule, to confess upon the Trial, that the Defendant (if he defends as Tenant, or in case he defends as Landlord, that his Tenant) was, at the time of the service of the declaration, in the possession of such Premises ; and that if upon the trial the Defendant shall not confess such possession, as well as Lease, Entry, and Ouster, whereby the Plaintiff shall not be able further to prosecute his suit against the said Defendant, then no costs shall be allowed for not further prosecuting the same, but the said Defendant shall pay costs to the Plaintiff in that case to be taxed.

JOHN SAUNDERS,

J. M. BLISS,

W. BOTSFORD,

WARD CHIPMAN.

*Trinity Term, 8 Geo. IV.*

ANNO DOMINI 1827.

IT IS ORDERED, That henceforth no Writ of Error *Coram Nobis* shall be allowed but in open Court; and then on affidavit of the Error to be assigned.

JOHN SAUNDERS,  
J. M. BLISS,  
W. BOTSFORD,  
WARD CHIPMAN.

*Hilary Term, 9 Geo. IV.*

ANNO DOMINI 1828.

IT IS ORDERED, That from henceforth there be at least fourteen days notice of Trial, and for Writs of Inquiry, in all cases, whether the Defendant lives within the County where the Court sits or not; any former Rule of this Court to the contrary notwithstanding.

It is further Ordered, that no notice of countermand shall be deemed sufficient to save the costs for not proceeding to trial pursuant to notice, unless it be given at least ten days before the time of the intended Trial.

It is further Ordered, that from henceforth all Defendants in Scire Facias have twenty days to appear from the return day of the Scire Facias; and that, where a Defendant appears in Scire Facias, there shall be the like time for pleading as in other actions in this Court; and that in cases, where the Plaintiff in Scire Facias proceeds upon two *Nihils* returned, besides the entry of the Rule to appear with the Clerk, a copy of the said Rule shall be affixed in some conspicuous place in the Clerk's office, twenty days before the Plaintiff shall be entitled to sign Judgment; and the day on which such copy is so affixed shall be marked thereon, in order to manifest the time.

JOHN SAUNDERS, *Chief Justice*,  
J. M. BLISS,  
WILLIAM BOTSFORD,  
WARD CHIPMAN.

*Trinity Term, 2 Will. IV.*

ANNO DOMINI 1831.

Whereas expence is often unnecessarily incurred in making up Demurrer Books, from setting forth those parts of the Pleadings to which the Demurrers do not apply: It is therefore Ordered, That from and after the end of this Term, when there shall be a demurrer to part only of the Declaration or other subsequent pleadings, those parts only of the Declaration and pleadings to which such demurrer relates shall be copied into the Demurrer Books; and, if any other parts shall be copied, the Clerk shall not allow the Costs thereof on taxation, either as between party and party, or as between Attorney and Client.

JOHN SAUNDERS, C. J.  
J. M. BLISS,  
W. BOTSFORD.  
WARD CHIPMAN,

*Hilary Term, 2d Will. IV.*

ANNO DOMINI 1832.

## GENERAL RULES RELATING TO BAIL.

IT IS ORDERED, That in all cases, where Bail is put in before a Commissioner, the Bail-piece, together with the Affidavit of the due taking thereof, shall be forthwith transmitted, by the Attorney who puts in the Bail, to one of the Judges of this Court; and the notice of Bail, in such cases, shall specify the Judge to whom the Bail piece has been so transmitted, as well as the Commissioner, before whom the Bail was put in, and the names and additions of the Bail.

That Plaintiffs shall be allowed Twenty days, after service of the Notice of Bail, to except against such Bail; and such exception shall be entered with the Judge before whom Bail was put in, or to whom the Bail piece has been transmitted, as the case may be.

That Defendants shall be allowed Twenty days, after service of Notice of exception, to procure their Bail to justify, or to add other Bail, who shall justify within the said twenty days, unless in either case, upon application made before the said twenty days expire, the Court, or a Judge, shall see fit to extend the time.

That Bail shall justify in open Court, or before the Judge with whom the exception is entered, notice of justifying being first duly given: and that in all cases, when the Bail reside more than ten miles from the place where they are to justify, they may justify by Affidavit without personal attendance.

That Bail must be Housekeepers or Freeholders; and, in cases, where the sum sworn to does not exceed three hundred pounds, must be worth double the sum sworn to; and in cases above three hundred pounds, must be worth three hundred pounds more than the sum sworn to, over and above their just debts, and every other sum for which they are Bail.

That the Affidavit of Justification shall be according to the following form; and may be made before a Judge or a Commissioner of this Court for taking affidavits.

### FORM OF AFFIDAVIT.

IN THE SUPREME COURT.

*Between, &c.*

A. B. and C. D., Bail for the Defendant in this cause, severally make oath and say, and first this Deponent A. B., for himself saith, that he is a Housekeeper (*or Freeholder, as the case may be*) residing at (*describing particularly the place of residence*) that he is possessed of property to the amount of £—— (*double the amount of the sum sworn to, if under £300, and if above £300, the amount of the sum sworn to, and £300 added thereto*) over and above all his just debts, (*if Bail in any other action add*) and every other sum for which he is now Bail—(*if not Bail in any other action add*) that he is not Bail for any Defendant except in this action; that this Deponent's property to the amount of the said sum of £—— (*and if Bail in any other action, "and of all other sums for which he is now Bail as aforesaid"*) consists of Real property of the value of £——, and of personal property of the value of £—— (*as the case may be*) and this Deponent, C. D., for himself saith (*as before.*)

Sworn, &c.

That if the Notice of Bail shall be accompanied by such an affidavit of justification, and the Plaintiff after-

wards except to such Bail, he shall, if such Bail are allowed, pay the Costs of Justification; and, if such Bail are rejected, the Defendant shall pay the Costs of Opposition, unless the Court, or a Judge, shall otherwise order.

That, in cases of exception, when Bail have duly justified and been allowed, and a Rule for an allowance has been entered in Court, or an order therefor made by a Judge, and a copy of such Rule or order has been served on the Plaintiff's Attorney, the Bail shall be deemed perfected; and the Attorney who puts in the Bail shall forthwith obtain the Bail-piece from the Judge, with whom it lies, and file the same with the Clerk.

That if the Plaintiff does not except against the Bail, within twenty days after service of Notice of Bail, the Bail shall, in like manner, be deemed perfected; and the Attorney who puts in the Bail, shall forthwith, after the expiration of the said twenty days, obtain the Bail-piece from the Judge, and file the same with the Clerk.

That, in cases of Render in discharge of Bail, the Clerk, upon production of a Certificate of the Sheriff, to whose Custody the Defendant has been committed, that such Defendant is in his Custody, together with an affidavit of the service of Notice of Render upon the Plaintiff's Attorney, shall indorse upon the Bail-piece an **EXONERATUR**, in the words following "The Bail within named are exonerated;" and shall set down the day of the Month and Year of his so doing, and Sign his name thereto; and such Certificate and Affidavit shall thereupon be filed with the Bail-piece.

That hereafter proceedings against Bail, in an action upon the Recognizance, shall not cease, as provided for in the Rule of this Court of Michaelmas Term, One thousand eight hundred and twenty-five, without the Costs incurred in such action up to the time of notice of Render being first paid.

That any former Rules of this Court, inconsistent with any of these present Rules, relating to Bail, shall be hereafter of no effect.

That any Attorney, who shall neglect to transmit, or to file the Bail-piece, as the case may be, according to



the foregoing Rules, shall be deemed to be in contempt of the Court for disobedience to its Rules.

JOHN SAUNDERS, C. J.  
J. M. BLISS,  
WILLIAM BOTSFORD,  
WARD CHIPMAN,

*Trinity Term, 3 Will. IV.*

ANNO DOMINI 1832.

IT IS ORDERED, That in future, all causes for trial at the Terms of this Court, be entered with the Clerk at or before the opening of the Court, on the first day of its sittings, in like manner as the Rule is at the Nisi Prius, and that no such entry be made, after the time so limited, unless the Court under special circumstances shall see fit to allow the same. And it is further Ordered, That hereafter, as well at the Terms, as at Nisi Prius, trials shall be proceeded with on the first day of the Sittings of the Court, in the order in which the Causes are entered; any usage to the contrary notwithstanding—the first Cause not to be called on, before the expiration of one hour, after the opening of the Court on such first day of the sittings.

JOHN SAUNDERS, C. J.  
J. M. BLISS,  
WARD CHIPMAN.

*Trinity Term, 5 Will. IV.*

ANNO DOMINI 1834.

GENERAL RULES RELATING TO  
SUMMARY ACTIONS.

IT IS ORDERED, That the Writ in Summary Actions shall be on Parchment, according to the usage in this Court in other actions.

That in every action which has not been agreed and in which it is intended to proceed, the Plaintiff's Attorney shall file the Writ, and enter the Cause at the Term in which the Writ is returnable, and shall make a Docket of such causes, and deliver the same to the Clerk, and pay the fees in like manner as in other actions.

That in actions to be tried at Nisi Prius, the Writ

and Plea shall be delivered from the files of this Court to the Plaintiff's Attorney, and shall form the Record, and be filed as such, at the Court of Nisi Prius.

That the result of trials at Nisi Prius shall be entered in a brief and summary form, according to the circumstances of each case, and endorsed on the Writ or annexed thereto, in the nature of a Postea, and returned by the Clerk of the Circuits accordingly.

That the Clerk of this Court shall not, in any case, sign final Judgment, unless the Writ be on file in his office; and in every Memorandum of Judgment, there shall be reference made to such Writ so on file.

J. M. BLISS.  
W. BOTSFORD,  
WARD CHIPMAN.

*Michaelmas Term, 5 Will. IV.*

ANNO DOMINI 1834.

## GENERAL RULES.

**ORDERED,** That it shall be deemed irregular to put in Bail before a Commissioner, in any Parish or City in the Province, in which one or more of the Judges of this Court may reside, unless at times when such Judge or Judges may be absent from their place of residence; and further, that always, during the sitting of the Court in Term time, it shall be irregular to put in Bail before a Commissioner, in the Parish of Fredericton in the County of York; and that no Judge do receive any Bail-piece, transmitted to him, in which the Bail may have been entered contrary to this Rule.

In order to secure to Sheriffs the proper emoluments of their office, It is **Ordered,** That, after the first day of Hilary Term next, no Costs for the service or return of any Writ or Process, be taxed or allowed in any Bill of Costs, without the production of such Writ or Process, with the return thereof, signed by the Sheriff or his Deputy, and the Fees for the service and return, marked thereupon by such Sheriff or Deputy.

**IT IS ORDERED,** That in future, the Attorney for the party intending to move for a new trial, or for setting aside a verdict, shall cause to be delivered to the Judge

before whom the cause was tried, a note in writing specifying the name of the cause, the time and place of the trial, and the general grounds of the intended motion: such note in writing to be delivered to the Judge in causes tried in vacation, on or before the first day of the next ensuing Term, and in causes tried in Term, on or before the Monday in the second week of the Term.

WARD CHIPMAN,  
W. BOTSFORD,  
R. PARKER.