

A.D. 1875.

ORDER LIX.

EFFECT OF NON-COMPLIANCE.

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.

ORDER LX.

OFFICERS.

1. All officers who at the time of the commencement of the said Act shall be attached to the Court of Chancery shall be attached to the Chancery Division of the said High Court; and all officers who at the time of the commencement of the said Act shall be attached to the Court of Queen's Bench shall be attached to the Queen's Bench Division of the said High Court; and all officers who at the time of the commencement of the said Act shall be attached to the Court of Common Pleas shall be attached to the Common Pleas Division of the said High Court; and all officers who at the time of the commencement of the said Act shall be attached to the Court of Exchequer shall be attached to the Exchequer Division of the said High Court; and all officers who at the time of the commencement of the said Act shall be attached to the Court of Probate, the Court of Divorce, and the Court of Admiralty respectively shall be attached to the Probate, Divorce, and Admiralty Division of the said High Court.

2. Officers attached to any division shall follow the appeals from the same division, and shall perform in the Court of Appeal analogous duties in reference to such appeals as the registrars and officers of the Court of Chancery usually performed as to re-hearings in the Court of Appeal in Chancery, and as the Masters and officers of the Courts of Queen's Bench, Common Pleas, and Exchequer respectively performed as to appeals heard by the Court of Exchequer Chamber.

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ORDER LXI.

SITTINGS AND VACATIONS.

1. The sittings of the Court of Appeal and the sittings in London and Middlesex of the High Court of Justice shall be four in every year, viz., the Michaelmas sittings, the Hilary sittings, the Easter sittings, and the Trinity sittings.

The Michaelmas sittings shall commence on the 2nd of November and terminate on the 21st of December; the Hilary sittings shall commence on the 11th of January and terminate on the Wednesday before Easter; the Easter sittings shall commence on the Tuesday after Easter week and terminate on the Friday before Whitsunday.

The Trinity sittings shall commence on the Tuesday after Whitsun week and terminate on the 8th of August.

2. The vacations to be observed in the several courts and offices of the Supreme Court shall be four in every year, viz., the Long vacation, the Christmas vacation, the Easter vacation, and the Whitsun vacation.

The Long vacation shall commence on the 10th of August and terminate on the 24th of October. The Christmas vacation shall commence on the 24th of December and terminate on the 6th of January.

The Easter vacation shall commence on Good Friday and terminate on Easter Tuesday, and the Whitsun vacation shall commence on the Saturday before Whitsunday and shall terminate on the Tuesday after Whitsunday.

3. The days of the commencement and termination of each sitting and vacation shall be included in such sitting and vacation respectively.

4. The several offices of the Supreme Court shall be open on every day of the year, except Sundays, Good Friday, Monday and Tuesday in Easter week, Whit Monday, Christmas Day, and the next following working day, and all days appointed by proclamation to be observed as days of general fast, humiliation, or thanksgiving.

5. Two of the Judges of the High Court shall be selected at the commencement of each long vacation for the hearing in London or Middlesex during vacation of all such applications as may require to be immediately or promptly heard. Such two Judges shall act as vacation Judges for one year from their appointment. In the absence of arrangement between the Judges, the two

vacation Judges shall be the two Judges last appointed (whether as Judges of the said High Court or of any Court whose jurisdiction is by the said Act transferred to the said High Court) who have not already served as vacation Judges of any such Court, and if there shall not be two Judges for the time being of the said High Court who shall not have so served, then the two vacation Judges shall be the Judge (if any) who has not so served and the senior Judge or Judges who has or have so served once only according to seniority of appointment, whether in the said High Court or such other Court as aforesaid. The Lord Chancellor shall not be liable to serve as a vacation Judge. A.D. 1875.

6. The vacation Judges may sit either separately or together as a Divisional Court as occasion shall require, and may hear and dispose of all actions, matters, and other business to whichever division the same may be assigned. No order made by a vacation Judge shall be reversed or varied except by a Divisional Court or the Court of Appeal, or a Judge thereof, or the Judge who made the order. Any other Judge of the High Court may sit in vacation for any vacation Judge.

7. The vacation Judges of the High Court may dispose of all actions, matters, and other business of an urgent nature during any interval between the sittings of any division of the High Court to which such business may be assigned, although such interval may not be called or known as a vacation.

ORDER LXII.

EXCEPTIONS FROM THE RULES.

Nothing in these Rules shall affect the practice or procedure in any of the following causes or matters:—

Criminal proceedings:

Proceedings on the Crown side of the Queen's Bench Division:

Proceedings on the Revenue side of the Exchequer Division:

Proceedings for Divorce or other Matrimonial Causes.

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ORDER LXIII.

INTERPRETATION OF TERMS.

The provisions of the 100th section of the Act shall apply to these Rules.

In the construction of these Rules, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned or referred to shall have or include the meanings following :—

“ Person ” shall include a body corporate or politic :

“ Probate actions ” shall include actions and other matters relating to the grant or recall of probate or of letters of administration other than common form business :

“ Proper officer ” shall, unless and until any rule to the contrary is made, mean an officer to be ascertained as follows :—

(a.) Where any duty to be discharged under the Act or these Rules is a duty which has heretofore been discharged by any officer, such officer shall continue to be the proper officer to discharge the same :

(b.) Where any new duty is under the Act or these Rules to be discharged, the proper officer to discharge the same shall be such officer, having previously discharged analogous duties, as may from time to time be directed to discharge the same, in the case of an officer of the Supreme Court, or the High Court of Justice, or the Court of Appeal, not attached to any division, by the Lord Chancellor, and in the case of an officer attached to any division, by the President of the division, and in the case of an officer attached to any Judge, by such Judge :

“ The Act ” and “ the said Act ” shall respectively mean the Supreme Court of Judicature Act, 1873, as amended by this Act.

APPENDIX (A.)

A.D. 1875.

PART I.

FORMS OF WRITS OF SUMMONS, &c.

No. 1.

Title in full.

187 . [Here put the letter and number.]
In the High Court of Justice. Between A.B. Plaintiff,
Division. and
C.D. and E.F. Defendants.

VICTORIA, by the grace of God, &c.

To C.D. of in the county of and E.F. of

We command you, That within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Division of Our High Court of Justice in an action at the suit of A.B.; and take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Witness, &c.

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served within (*twelve*) calendar months from the date thereof, or, if renewed, from the date of such renewal, including the day of such date, and not afterwards.

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

Indorsements to be made on the writ before issue thereof.

The plaintiff's claim is for, &c.

This writ was issued by E.F., of solicitor for the said plaintiff, who resides at , or, this writ was issued by the plaintiff in person who resides at [*mention the city, town, or parish, and also the name of the street and number of the house of the plaintiff's residence, if any*].

Indorsement to be made on the writ after service thereof.

This writ was served by X.Y. on L.M. [the defendant or one of the defendants], on Monday, the day of , 18 .
(Signed) X.Y.

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No. 2.

Writ for service out of the jurisdiction, or where notice in lieu of service is to be given out of the jurisdiction.

In the High Court of Justice,
Division.

187 . [Here put the letter and number.]

Between A.B. Plaintiff,

and

C.D. and E.F. Defendants.

VICTORIA, by the grace of God, &c.

To C.D. of

We command you, C.D., That within [here insert the number of days directed by the Court or Judge ordering the service or notice] after the service of this writ [or notice of this writ, as the case may be] on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the

Division of Our High Court of Justice in an action at the suit of A.B.; and take notice, that in default of your so doing the plaintiff may, by leave of the Court or a Judge, proceed therein, and judgment may be given in your absence. Witness, &c.

Memoranda and Indorsements as in Form No. 1.

Indorsement to be made on the writ before the issue thereof.

N.B.—This writ is to be used where the Defendant or all the Defendants or one or more Defendant or Defendants is or are out of the jurisdiction.

No. 3.

Notice of Writ in lieu of service to be given out of the jurisdiction.

187 . [Here put the letter and number.]

Between A.B. Plaintiff,

and

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

To G.H., of

Take notice, that A.B., of _____ has commenced an action against you, G.H., in the _____ Division of Her Majesty's High Court of Justice in England, by writ of that Court, dated the _____ day of _____, A.D. 18____; which writ is indorsed as follows [copy in full the indorsements], and you are required within _____ days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action; and in default of your so doing, the said A.B. may, by leave

of the Court or a Judge, proceed therein, and judgment may be given in your absence. A.D. 1875.

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

(Signed) A.B. of &c.

or

X.Y. of &c.

Solicitor for A.B.

In the High Court of Justice.
Division.

No. 4.

Writ in Admiralty action in rem.

187 . [Here put the letter and number.]

In the High Court of Justice.
Admiralty Division.

Between A.B., plaintiff,
and
Owners.

VICTORIA, &c.

To the owners and parties interested in the ship or vessel [*Mary*] [*or cargo, &c., as the case may be*] of the port of

We hereby authorise _____ officer of Our Supreme Court, and all and singular his substitutes, to arrest the ship or vessel [*Mary*], of the port of _____ and the cargo laden therein [*or cargo, &c., as the case may be*], and to keep the same under safe arrest until he shall receive further orders from Us. And We command you, the owners and other parties interested in the said ship and cargo [*or cargo, &c., as the case may be*] that within eight days after the arrest of the said vessel [*or cargo, &c., as the case may be*] you do cause an appearance to be entered for you in the Admiralty Division of Our High Court of Justice in an action at the suit of A.B.; and take notice, that in default of your so doing Our said Court will proceed to hear the said action and to pronounce judgment therein, your absence notwithstanding.

No. 5.

Form of Memorandum for Renewed Writ.

In the High Court of Justice.
Division.

Between A.B., plaintiff,
and
C.D., defendant.

Seal renewed writ of summons in this action indorsed as follows :—

[*Copy original writ and the indorsements.*]

[CH. 77.] *Supreme Court of Judicature Act* [38 & 39 VICT.]
(1873) *Amendment.*

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No. 6.

Memorandum of Appearance.

187 . [Here put the letter and number.]

High Court of Justice.
[Chancery] Division.

A.B. v. *C.D.*, and others.

Enter an appearance for
in this action.

Dated this day of

X.Y.,
Solicitor for the Defendant.

The place of business of *X.Y.* is
His address for service is

or [*C.D.*,
Defendant in person.

The address of *C.D.* is
His address for service is .]

The said defendant [requires, or, does not require] a statement of complaint
to be filed and delivered.

No. 7.

[Here put the letter and number.]

In the High Court of Justice.

Queen's Bench (or Chancery, C.P., or, &c.) Division.

Between *A.B.*, plaintiff,
and
C.D., and
E.F., defendants.

The defendant *C.D.* limits his defence to part only of the property
mentioned in the writ in this action, that is to say, to the close called "the
Big field."

Yours, &c.

G.H.,
Solicitor for the said defendant *C.D.*

To Mr. *X.Y.*, plaintiff's solicitor.

PART II.

A.D. 1875.

SECTION I.

GENERAL INDORSEMENTS.

In Matters assigned by the 34th Section of the Act to the Chancery Division.

1. *Creditor to administer Estate.*

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

2. *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of 18 , of *X.Y.* deceased, to have the [real and] personal estate of the said *X.Y.* administered. The defendant *C.D.* is sued as the executor of the said *X.Y.* [and the defendants *E.F.* and *G.H.* as his devisees].

3. *Partnership.*

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

4. *By Mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage dated the day of made between [or by deposit of title deeds], and that the mortgage may be enforced by foreclosure or sale.

5. *By Mortgagor.*

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

6. *Raising Portions.*

The plaintiff's claim is that the sum of *l.*, which by an indenture of settlement dated , was provided for the portions of the younger children of may be raised.

7. *Execution of Trusts.*

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

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8. *Cancellation or Rectification.*

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

9. *Specific Performance.*

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

SECTION II.

Money Claims where no Special Indorsement under Order III., Rule 6.

Goods sold.	The plaintiff's claim is _____ l. for the price of goods sold. [This Form shall suffice whether the claim be in respect of goods sold and delivered, or of goods bargained and sold.]
Money lent.	The plaintiff's claim is _____ l. for money lent [and interest].
Several demands.	The plaintiff's claim is _____ l., whereof _____ l. is for the price of goods sold, and _____ l. for money lent, and _____ l. for interest.
Rent.	The plaintiff's claim is _____ l. for arrears of rent.
Salary, &c.	The plaintiff's claim is _____ l. for arrears of salary as a clerk [or as the case may be].
Interest.	The plaintiff's claim is _____ l. for interest upon money lent.
General average.	The plaintiff's claim is _____ l. for a general average contribution.
Freight, &c.	The plaintiff's claim is _____ l. for freight and demurrage.
Tolls.	The plaintiff's claim is _____ l. for lighterage.
Penalties.	The plaintiff's claim is _____ l. for market tolls and stallage.
	[. . .]. _____ l. for penalties under the Statute.
Bankers balance.	The plaintiff's claim is _____ l. for money deposited with the defendant as a banker.
Fees, &c. as solicitors.	The plaintiff's claim is _____ l. for fees for work done [and _____ l. money expended] as a solicitor.
Commission.	The plaintiff's claim is _____ l. for commission earned as [state character as auctioneer, cotton broker, &c.].
Medical attendance, &c.	The plaintiff's claim is _____ l. for medical attendances.
Return of premium.	The plaintiff's claim is _____ l. for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is _____ l. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is _____ l. for the carriage of goods by railway.
Use and occupation of houses.	The plaintiff's claim is _____ l. for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is _____ l. for the hire of [furniture].
Work done.	The plaintiff's claim is _____ l. for work done as a surveyor.
Board and lodging.	The plaintiff's claim is _____ l. for board and lodging.

The plaintiff's claim is of X.Y.	l. for the board, lodging, and tuition	Schooling.
The plaintiff's claim is solicitor [or factor, or collector, or, &c.] of the plaintiff.	l. for money received by the defendant as	Money received.
The plaintiff's claim is colour of the office of	l. for fees received by the defendant under	Fees of office.
The plaintiff's claim is the carriage of goods by railway.	l. for a return of money overcharged for	Money overpaid.
The plaintiff's claim is defendant as	l. for a return of fees overcharged by the	
The plaintiff's claim is the defendant as stakeholder.	l. for a return of money deposited with	Return of money by stakeholder.
The plaintiff's claim is as stakeholder, and become payable to plaintiff.	l. for money entrusted to the defendant	Money won, from stakeholder.
The plaintiff's claim is defendant as agent of the plaintiff.	l. for a return of money entrusted to the	Money entrusted to agent.
The plaintiff's claim is plaintiff by fraud.	l. for a return of money obtained from the	Money obtained by fraud.
The plaintiff's claim is defendant by mistake.	l. for a return of money paid to the	Money paid by mistake.
The plaintiff's claim is defendant for [work to be done, left undone; or, a bill to be taken up; not taken up, or, &c.].	l. for a return of money paid to the	Money paid for consideration which has failed.
The plaintiff's claim is upon shares to be allotted.	l. for a return of money paid as a deposit	
The plaintiff's claim is surety.	l. for money paid for the defendant as his	Money paid by surety for defendant.
The plaintiff's claim is defendant.	l. for money paid for rent due by the	Rent paid.
The plaintiff's claim is [indorsed] for the defendant's accommodation.	l. upon a bill of exchange accepted [or	Money paid on accommodation bill.
The plaintiff's claim is paid by the plaintiff as surety.	l. for a contribution in respect of money	Contribution by surety.
The plaintiff's claim is debt of the plaintiff and the defendant, paid by the plaintiff.	l. for a contribution in respect of a joint	By co-debtor.
The plaintiff's claim is against which the defendant was bound to indemnify the plaintiff.	l. for money paid for calls upon shares,	Money paid for calls.
The plaintiff's claim is	l. for money payable under an award.	Money payable under award.
The plaintiff's claim is life of X.Y., deceased.	l. upon a policy of insurance upon the	Life policy.
The plaintiff's claim is 1,000 <i>l.</i> , and interest.	l. upon a bond to secure payment of	Money bond.
The plaintiff's claim is in the Empire of Russia.	l. upon a judgment of the	Court, Foreign judgment.
The plaintiff's claim is	l. upon a cheque drawn by the defendant.	Bills of exchange, &c.

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[CH. 77.]

Supreme Court of Judicature Act [38 & 39 VICT.]
(1873) *Amendment.*

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

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

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

Surety.

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

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

Del credere
agent.

The plaintiff's claim is *l. against the defendant as a del credere agent for the price of goods sold [or as losses under a policy].*

Calls.

The plaintiff's claim is *l. for calls upon shares.*

Waygoing crops,
&c.

The plaintiff's claim is *l. for crops, tillage, manure [or as the case may be] left by the defendant as outgoing tenant of a farm.*

SECTION III.

Indorsement for Costs, &c. [add to the above Forms].

And *l. for costs; and if the amount claimed be paid to the plaintiff or his solicitor within four days [or if the writ is to be served out of the jurisdiction, or notice in lieu of service allowed, insert the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.*

SECTION IV.

Damages and other Claims.

Agent, &c.

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

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller *[and l. for arrears of wages].*

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

The plaintiff's claim is for damages for breach of duty as factor *[or, &c.] of the plaintiff [and l. for money received as factor, &c.]*

Apprentices.

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

Arbitration.

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

Assault, &c.

The plaintiff's claim is for damages for assault *[and false imprisonment, and for malicious prosecution].*

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

The plaintiff's claim is for damages for assault by the defendant *C.D.* Against husband and wife.

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

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same]. Bailment.

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

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

The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the plaintiff's cheque. Banker.

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

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

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

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

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

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

The plaintiff's claim is for damages for breach charter-party of ship [Mary]. Charter-party.

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

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

The plaintiff's claim is for damages for libel. Defamation.

The plaintiff's claim is for damages for slander.

The plaintiff's claim is in replevin for goods wrongfully distrained.

The plaintiff's claim is for damages for improperly distraining. Distress. Replevin. Wrongful distress.

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

The plaintiff's claim is to recover possession of a house, No. in street, or of a farm called Blackacre, situate in the parish of in the county of Ejectment.

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

[*The two previous Forms may be combined.*]

The plaintiff's claim is for dower. Dower.

[CH. 77.] *Supreme Court of Judicature Act* [38 & 39 VICT.]
(1873) *Amendment.*

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Fishery.

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

Fraud.

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

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

Guarantee.

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

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

Insurance.

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

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

Fire insurance.

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

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

Landlord and tenant.

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

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

Medical man.

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

Mischievous animal.

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

Negligence.

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

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

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

Lord Campbell's Act.

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

Promise of marriage.

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

Quare impedit.

The plaintiff's claim is in quare impedit for

Seduction.

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

Sale of goods.

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

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

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

The plaintiff's claim is for damages for breach of a contract to sell [*or purchase*] land. A.D. 1875.
Sale of Land.

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

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

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

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

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

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

The plaintiff's claim is for damages for wrongfully diverting [*or obstructing, or polluting, or diverting water from*] a watercourse. Watercourse, &c.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION V.

Probate.

1. *By an executor or legatee propounding a will in solemn form.*
The plaintiff claims to be executor of the last will dated the
day of _____ of C.W., late of _____
Gentleman, deceased, who died on the _____
day of _____
and to have the said will established. This writ is issued against you as one
of the next of kin of the said deceased [*or as the case may be*].
2. *By an executor or legatee of a former will, or a next of kin, &c., of the
deceased seeking to obtain the revocation of a Probate granted in common form.*
The plaintiff claims to be executor of the last will dated the
day of _____ of C.D., late of _____
Gentleman, deceased, who died on the _____
day of _____
and to have the probate of a pretended will of the said deceased, dated the
day of _____ revoked. This writ is
issued against you as the executor of the said pretended will [*or as the case
may be*].
3. *By an executor or legatee of a will when letters of administration have
been granted as in an intestacy.*
The plaintiff claims to be executor of the last will of C.D., late of _____
Gentleman, deceased, who died on the _____
day of _____
dated the _____ day of _____
The plaintiff claims that the grant of letters of administration of the
personal estate of the said deceased obtained by you should be revoked, and
probate of the said will granted to him.
4. *By a person claiming a grant of administration as a next of kin of
the deceased, but whose interest as next of kin is disputed.*
The plaintiff claims to be the brother and sole next of kin of C.D. of _____
Gentleman, deceased, who died on the _____
day of _____ intestate, and to have

as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next of kin of the deceased [*or as the case may be*].

(g.) SECTION VI.

Admiralty.

1. *Damage to vessel by collision.*

The plaintiffs as owners of the vessel "Mary," of the port of claim 1,000*l.* against the brig or vessel "Jane" for damage occasioned by a collision, which took place in the North Sea in the month of May last.

2. *Damage to cargo by collision.*

The plaintiffs as owners of the cargo laden on board the vessel "Mary," of the port of , claim £ against the vessel "Jane," for damage done to the said cargo in a collision in the North Sea in the month of May last.

[The two previous forms may be combined.]

3. *Damage to cargo otherwise.*

The plaintiff as owner of goods laden on board the vessel "Mary," on a voyage from Lisbon to England, claims from the owner of the said vessel £ for damage done to the said goods during such voyage.

4. *In causes of possession.*

The plaintiff as sole owner of the vessel "Mary," of the port of claims to have possession decreed to him of the said vessel.

5. The plaintiff claims possession of the vessel "Mary," of the port of as owner of 48-64th shares of the said vessel against *C.D.*, owner of 16-64th shares of the said vessel.

6. The plaintiff as part owner of the vessel "Mary," claims against *C.D.*, part owner and his shares in the said vessel £ as part of the earnings of the said vessel due to plaintiff.

7. The plaintiff as owner of 48-64th shares of the vessel "Mary," of the port of , claims possession of the said brig as against *C.D.* the master thereof.

8. The plaintiff under a mortgage, dated the day of claims against the vessel "Mary," £ , being the amount of his mortgage thereon, and £ for interest.

9. The plaintiff as assignee of a bottomry bond, dated the day of , and granted by *C.D.* as master of the vessel "Mary," of the port of , to *A.B.*, at St. Thomas's, in the West Indies, claims £ against the vessel "Mary" and the cargo laden thereon.

10. *By a part owner of a vessel.*

The plaintiff as owner of 24-64th shares of the vessel "Mary," being dissatisfied with the management of the said vessel by his co-owners, claims that his co-owners shall give him a bond in £ for the value of the plaintiff's said shares in the said vessel.

A.D. 1875.

11. The plaintiffs as owners of the derelict vessel "Mary," of the port of _____, claim to be put in possession of the said vessel and her cargo.

12. *By Salvors.*

The plaintiffs as the owners, master, and crew of the vessel "Caroline," of the port of _____, claim the sum of £_____ for salvage services performed by them to the vessel "Mary," off the Goodwin Sands, on the _____ day of _____.

13. *Claim for Towage.*

The plaintiffs as owners of the steam-tug "Jane," of the port of _____, claim £_____ for towage services performed by the said steam-tug to the vessel "Mary," on the _____ day of _____.

14. *Seamen's Wages.*

The plaintiffs as seamen on board the vessel "Mary," claim £_____ for wages due to them, as follows (1), the mate 30*l.* for two months' wages from the _____ day of _____.

15. *For Necessaries.*

The plaintiffs claim £_____ for necessaries supplied to the vessel "Mary," at the port of Newcastle-on-Tyne, delivered on the _____ day of _____ and the _____ day of _____.

SECTION VII.

Special Indorsements under Order III., Rule 6.

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

1873—31st December.—

Balance of account for butcher's meat to this	£	s.	d.
date - - - - -	35	10	0

1874—1st January to 31st March.—

Butcher's meat supplied - - - - -	74	5	0
-----------------------------------	----	---	---

109 15 0

1874—1st February.—Paid - - - - -	45	0	0
-----------------------------------	----	---	---

Balance due - - - £64 15 0

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

1874—2nd February. Guarantee by *C.D.* of the price of woollen goods, to be supplied to *A.B.*

2nd February—To goods - - - - -	£	s.	d.
3rd March—To goods - - - - -	47	15	0
17th March—To goods - - - - -	105	14	0
5th April—To goods - - - - -	14	12	0
	34	0	0

202 1 0

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

A.D. 1875.

Promissory note for 250*l.*, dated 1st January 1874, made by defendant, payable four months after date.

Principal	-	-	-	-	-	-	£	250
Interest	-	-	-	-	-	-	-	-

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

Bill of exchange for 500*l.*, dated 1st January 1874, drawn by defendant *C.D.* upon and accepted by defendant *A.B.*, payable three months after date.

Principal	-	-	-	-	-	-	£	500
Interest	-	-	-	-	-	-	-	-

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

Bond dated 1st January 1873. Condition for payment of 100*l.* on the 26th December 1873.

Principal due	-	-	-	-	-	-	£	50
Interest	-	-	-	-	-	-	-	-

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

Deed dated covenant to pay 100*l.* and interest.

Principal due	-	-	-	-	-	-	£	80
Interest	-	-	-	-	-	-	-	-

SECTION VIII.

Indorsements of Character of Parties.

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

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

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

A.D. 1875.

By husband and
wife, executrix.

The claim of the plaintiff *C.D.* is as executrix of *X.Y.*, deceased, and the claim of the plaintiff *A.B.* as her husband, for

Against husband
and wife, exe-
cutrix.

The claim of the plaintiff is against the defendant *C.D.*, as executrix of the defendant *C.D.*, deceased, and against the defendant *A.B.*, as her husband, for

Trustee in bank-
ruptcy.

The plaintiff's claim is as trustee under the bankruptcy of *A.B.*, for

The plaintiff's claim is against the defendant as trustee under the bank-
ruptcy of *A.B.*, for

Trustees.

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

Public officer.

The plaintiff's claim is as public officer of the Bank, for

The plaintiff's claim is against the defendant as public officer of the
Bank, for

The plaintiff's claim is against the defendant *A.B.* as principal, and against
the defendant *C.D.* as public officer of the Bank, as surety, for

The plaintiff's claim is against the defendant as heir-at-law of *A.B.*, *A.D.* 1875.
deceased. Heir and devisee.

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

The plaintiff's claim is as well for the Queen as for himself, for Qui tam action.

APPENDIX (B.)

FORM 1.

Notice by Defendant to Third Party.

187 . [Here put the letter and number.]
Notice filed , 187 .

In the High Court.
Queen's Bench Division.

Between *A.B.*, plaintiff,
and
C.D., defendant.

To Mr. *X.Y.*

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

The defendant claims to be entitled to contribution from you to the extent
of one-half of any sum which the plaintiff may recover against him, on the
ground that you are [his co-surety under the said bond, *or*, also surety for the
said *M.N.*, in respect of the said matter, under another bond made by you in
favour of the said plaintiff, dated the day of , *A.D.*].

Or [as acceptor of a bill of exchange for 500*l.*, dated the day
of , *A.D.* , drawn by you before and accepted by the
defendant, and payable three months after date.

The defendant claims to be indemnified by you against liability under the
said bill, on the ground that it was accepted for your accommodation.]

Or [to recover damages for a breach of a contract for the sale and delivery
to the plaintiff of 1,000 tons of coal.

The defendant claims to be indemnified by you against liability in respect
of the said contract, or any breach thereof, on the ground that it was made by
him on your behalf and as your agent.]

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

A.D. 1875.

In default of your so appearing, you will not be entitled in any future proceeding between the defendant *C.D.* and yourself to dispute the validity of the judgment in this action, whether obtained by consent or otherwise.

(Signed) *E.T.*

Or,

X.Y.,

Solicitor for the defendant,

E.T.

Appearance to be entered at

FORM 2.

187 . [*Here put the letter and number.*]

In the High Court.

Queen's Bench Division.

Between *A.B.*, plaintiff,

and

C.D., defendant.

The plaintiff confesses the defence stated in the paragraph of the defendant's statement of defence [*or*, of the defendant's further statement of defence].

FORM 3.

187 . [*Here put the letter and number.*]

In the High Court of Justice.

Division.

Between *A.B.*, plaintiff,

and

C.D., defendant.

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

FORM 4.

" To the within-named *X.Y.*

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

" Appearances are to be entered at

."

A.D. 1875.

FORM 5.

Notice of Payment into Court.

In the High Court of Justice.
Q.B. Division.

1875. B. No.

A.B. v. C.D.

Take notice that the defendant has paid into Court £ , and says
that that sum is enough to satisfy the plaintiff's claim [or the plaintiff's claim
for, &c.]

To Mr. X.Y.,
the Plaintiff's Solicitor.

Z.,
Defendant's Solicitor.

FORM 6.

Acceptance of Sum paid into Court.

In the High Court of Justice.
Q.B. Division.

1875. B. No.

A.B. v. C.D.

Take notice that the plaintiff accepts the sum of £ paid by you into
Court in satisfaction of the claim in respect of which it is paid in.

FORM 7.

Form of Interrogatories.

In the High Court of Justice.
Division.

1874. B. No.

Between A.B., Plaintiff,
and

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

Interrogatories on behalf of the above-named [plaintiff, or defendant
C.D.] for the examination of the above-named [defendants E.F. and G.H., or
plaintiff].

1. Did not, &c.
2. Has not, &c.

&c. &c. &c.

[The defendant E.F. is required to answer the interrogatories
numbered .]

[The defendant G.H. is required to answer the interrogatories
numbered .]

[CH. 77.] *Supreme Court of Judicature Act* [38 & 39 VICT.]
(1873) *Amendment.*

A.D. 1875.

FORM 8.

Form of Answer to Interrogatories.

In the High Court of Justice.
Division.

1874. B. No.

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

The answer of the above-named defendant *E.F.* to the interrogatories for his examination by the above-named plaintiff.

In answer to the said interrogatories, I, the above-named *E.F.*, make oath and say as follows:—

.....
.....

FORM 9.

Form of Affidavit as to Documents.

In the High Court of Justice.
Division.

1874. B. No.

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, custody, or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this 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 said first and second schedules hereto.

A.D. 1875.

FORM 10.

Form of Notice to produce Documents.

In the High Court of Justice.
Q.B. Division.

A.B. v. 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.

X.Y.,

Solicitor to the

To Z.,
Solicitor for

FORM 11.

Form of Notice to inspect Documents.

In the High Court of Justice.
Q.B. Division.

A.B. v. 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*]:—

A.D. 1875.

FORM 12.

Form of Notice to admit Documents.

In the High Court of Justice.

Division.

A.B. v. 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 _____, 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 defendant [*or plaintiff*].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 release 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 <i>l.</i> at three months, drawn by A.B. on and accepted by C.D., indorsed by E.F. and G.H.	May 1, 1849.

COPIES.

Description of Documents.	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.	Sent by General Post, February 2, 1848. Served March 2, 1848, on defendant's attorney by E.F. of—
Letter—plaintiff to defendant	February 1, 1848.	
Notice to produce papers	March 1, 1848.	
Record of a Judgment of the Court of Queen's Bench in an action, J.S. v. J.N.	Trinity Term, 10th Vic.	
Letters Patent of King Charles II. in the Rolls Chapel	January 1, 1680.	

FORM 13.

A.D. 1875.

Setting down Special Case.

1875. B. No.

In the High Court of Justice.
Division.

Between *A.B.*, Plaintiff;
and
C.D. and others, Defendants.

Set down for argument the special case filed in this action on the
day of , 187 .

X.Y., Solicitor for

FORM 14.

Form of Notice of Trial.

In the High Court of Justice.
Division.

A.B. v. C.D.

Take notice of trial of this action [*or of the issues in this action ordered
to be tried*] by a Judge and jury [*or as the case may be*] in Middlesex, [*or as
the case may be*] for the day of next.

X.Y., plaintiff's Solicitor [*or as the case may be*].

Dated

To *Z.*, defendant's Solicitor [*or as the case may be*].

FORM 15.

Form of Certificate of Officer after Trial by a Jury.

30th November 1876.

1876. No.

In the High Court of Justice.
Division.

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

I certify that this action was tried before the Honourable Mr. Justice
and a special jury of the county of on the 12th
and 13th days of November 1876.

The jury found [*state findings*].

The Judge directed that judgment should be entered for the plaintiff
for l. with costs of summons [*or as the case may be*].

A.B.,
[Title of Officer.]

[CH. 77.]

Supreme Court of Judicature Act [38 & 39 VICT.]
(1873) Amendment.

A.D. 1875.

FORM 16.

Affidavit of Scripts.

In the High Court of Justice.
Probate Division.

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

I, A.B. of , in the county of ,
party in this cause, make oath and say, that no paper or parchment writing,
being or purporting to be or having the form or effect of a will or codicil
or other testamentary disposition of E.F., late of , in the county
of , deceased, the deceased in this cause, or being or
purporting to be instructions for, or the draft of, any will, codicil, or testa-
mentary disposition of the said E.F., has at any time, either before or since
his death, come to the hands, possession, or knowledge of me, this deponent,
or to the hands, possession, or knowledge of my solicitors in this suit, so far as
is known to me, this deponent, save and except the true and original last will
and testament of the said deceased now remaining in the principal registry
of this Court [or hereunto annexed, or as the case may be], the said will
bearing date the day of 18 [or as the case
may be], also save and except [here add the dates and particulars of any other
testamentary papers of which the deponent has any knowledge].

(Signed) A.B.

Sworn at on the day of 18 .

Before me,

[Person authorised to administer oaths under the Act.]

APPENDIX (C.)

No. 1.

ACCOUNT
STATED.

In the High Court of Justice.
Division.

187 . B. No.

Writ issued 3rd August 1875.

Between A.B. - - - Plaintiff,
and
E.F. - - - Defendant.

Statement of Claim.

Claim.

1. Between the 1st of January and the 28th of February 1875, the plain-
tiff supplied to the defendant various articles of drapery ; and accounts and

invoices of the goods so supplied, and their prices, were from time to time furnished to the defendant, and payments on account were from time to time made by the defendant. A.D. 1875.

2. On the 28th of February 1875, a balance remained due to the plaintiff of 75*l.* 9*s.*, and an account was on that day sent by the plaintiff to the defendant showing that balance.

3. On the 1st of March following, the plaintiff's collector saw the defendant at his house, and asked for payment of the said balance, and the defendant then paid him by cheque 25*l.* on account of the same. The residue of the said balance, amounting to 50*l.* 9*s.*, has never been paid.

The plaintiff claims £ .

The plaintiff proposes that this action should be tried in the county of Northampton.

No. 2.

[1876. B. No. 233.]

ADMINIS-
TRATION OF
ESTATE.

In the High Court of Justice.

Chancery Division.

[*Name of Judge.*]

Writ issued 22d December 1876.

In the matter of the estate of *A.B.*, deceased.

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

Statement of Claim.

1. *A.B.* of *K.*, in the county of *L.*, died on the 1st of July 1875 intestate. Claim.
The defendant *G.H.* is the administrator of *A.B.*

2. *A.B.* died entitled to lands in the said county for an estate of fee simple, and also to some other real estate and to personal estate. The defendant has entered possession of the real estate of *A.B.*, and received the rents thereof. The legal estate in such real estate is outstanding in mortgages under mortgages created by the intestate.

3. *A.B.* was never married; he had one brother only, who pre-deceased him without having been married, and two sisters only, both of whom also pre-deceased him, namely *M.N.* and *P.Q.* The plaintiff is the only child of *M.N.*, and the defendant is the only child of *P.Q.*

The plaintiff claims—

1. To have the real and personal estate of *A.B.* administered in this court, and for that purpose to have all proper directions given and accounts taken.

A.D. 1875.

2. To have a receiver appointed of the rents of his real estate.
3. Such further or other relief as the nature of the case may require.

In the High Court of Justice.

[1876. B. No. 233.]

Chancery Division.

[Name of Judge.]

In the matter of the estate of *A.B.*, deceased.

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

Statement of Defence.

Defence.

1. The plaintiff is an illegitimate child of *M.N.* She was never married.
2. The intestate was not entitled to any real estate at his death, except a copyhold estate situate in the county of *R.*, and held of the manor of *S.* According to the custom of that manor, when the copyholder dies without issue, and without leaving a brother, or issue of a deceased brother, the copyhold descends to his elder sister and her issue in preference to his younger sister and her issue. *P.Q.* was older than *M.N.*
3. The personal estate of *A.B.* was not sufficient for the payment of his debts, and has all been applied in payment of his funeral and testamentary expenses, and part of his debts.

In the High Court of Justice.

[1876. B. No. 233.]

Chancery Division.

[Name of Judge.]

In the matter of the estate of *A.B.*, deceased.

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

Reply.

Reply.

The plaintiff joins issue with the defendant upon his defence.

No. 3.

A.D. 1875.

[1876. B. No. 234.]

In the High Court of Justice.

Chancery Division.

[*Name of Judge.*]

Writ issued 22nd December 1876.

In the matter of the estate of *A.B.*, deceased.

Between *E.F.* - - - - Plaintiff,

and

G.H. - - - - Defendant.

1. *A.B.* of *K.*, in the county of *L.*, duly made his last will, dated the 1st day of March 1873, whereby he appointed the defendant and *M.N.* (who died in the testator's lifetime) executors thereof, and devised and bequeathed his real and personal estate to and to the use of his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain 21, or a daughter who should attain that age, or marry, upon trust as to his real estate for the person who would be the testator's heir-at-law, and as to his personal estate for the persons who would be the testator's next of kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid. Claim.

2. The testator died on the 1st day of July 1873, and his will was proved by the defendant on the 4th of October 1873. The plaintiff has not been married.

3. The testator was at his death entitled to real and personal estate; the defendant entered into the receipt of the rents of the real estate and got in the personal estate; he has sold some part of the real estate.

The plaintiff claims—

1. To have the real and personal estate of *A.B.* administered in this court, and for that purpose to have all proper directions given and accounts taken.
2. Such further or other relief as the nature of the case may require.

[1876. B. No. 234.]

In the High Court of Justice.

Chancery Division.

[*Name of Judge.*]

In the matter of the estate of *A.B.*, deceased.

Between *E.F.* - - - - Plaintiff,

and

G.H. - - - - Defendant.

Statement of Defence.

1. *A.B.*'s will contained a charge of debts; he died insolvent; he was entitled at his death to some real estate which the defendant sold, and which Defence.

A.D. 1875. produced the net sum of 4,300*l.*, and the testator had some personal estate which the defendant got in and which produced the net sum of 1,204*l.* The defendant applied the whole of the said sums and the sum of 84*l.* which the defendant received from rents of the real estate in the payment of the funeral and testamentary expenses and some of the debts of the testator. The defendant made up his accounts and sent a copy thereof to the plaintiff on the 10th of January 1875, and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer. The defendant submits that the plaintiff ought to pay the costs of this action.

[1876. B. No. 234.]

In the High Court of Justice.

Chancery Division.

[Name of Judge.]

In the matter of the estate of *A.B.*, deceased.

Between *E.F.* - - - - - Plaintiff,

and

G.H. - - - Defendant.

Reply.

Reply. The plaintiff joins issue with the defendant upon his defence.

No. 4.

[1876. B. No. 235.]

In the High Court of Justice.

Chancery Division.

[Name of Judge.]

In the matter of the estate of *W.H.*, deceased.

Writ issued 22nd December 1876.

Between A.B. and C. his wife - - - Plaintiffs,

and

E.F. and G.H. - - - - Defendants.

Statement of Claim.

Claim. 1. W. H., of H., in the county of L., duly made his last will, dated the 19th day of March 1861, whereby he appointed the defendants the executors thereof, and bequeathed to them all his personal estate in trust, to call in, sell, and convert the same into money, and thereout to pay his debts and funeral and testamentary expenses, and to divide the ultimate surplus into three shares, and to pay one of such three shares to each of his two children, T. H., and E., the wife of E. W., and to stand possessed of the remaining third share upon trust for the children of the testator's son J. H. in equal shares, to be divided among them when the youngest of such children should attain the

A.D. 1875.

age of 21 years. And the testator devised his real estates to the defendants upon trust until the youngest child of the said J. H. should attain the age of 21 years, to pay one third part of the rents thereof to the said T. H., and one other third part thereof to the said E. W., and to accumulate the remaining third part by way of compound interest, and so soon as the youngest child of the said J. H. should attain the age of 21 years, to sell the said real estates, and out of the proceeds of such sale to pay the sum of 1,000*l.* to the said T. H., and to invest one moiety of the residue in manner therein mentioned, and stand possessed thereof in trust to pay the income thereof to the said E., the wife of the said E. W., during her life for her separate use, and after her death for her children, the interests of such children being contingent on their attaining the age of 21 years, and to divide the other moiety of such proceeds of sale and the accumulations of the third share of rents therein-before directed to be accumulated among such of the children of the said J. H. as should be then living, and the issue of such of them as should be then dead, in equal shares per stirpes.

2. The testator died on the 25th day of April 1873, and his said will was proved by the defendants in the month of June 1873.

3. The testator died possessed of one third share in a leasehold colliery called the Paradise Colliery, and in the engines, machinery, stock in trade, book debts, and effects belonging thereto. He was also entitled to real estate, and other personal estate.

4. The testator left T. H. and E., the wife of E. W., him surviving. J. H. had died in the testator's lifetime, leaving four children, and no more. The plaintiff C.B. is the youngest of the children of J. H., and attained the age of 21 years on the 1st of June 1871. The other three children of J. H. died without issue in the lifetime of the testator.

5. E. W. has several children, but no child has attained the age of 21 years.

6. T. H. is the testator's heir-at-law.

7. The defendants have not called in, sold, and converted into money the whole of the testator's personal estate, but have allowed a considerable part thereof to remain outstanding; and in particular the defendants have not called in, sold, or converted into money the testator's interest in the said colliery, but have, from the death of the testator to the present time, continued to work the same in partnership with the other persons interested therein. The estate of the testator has sustained considerable loss by reason of such interest not having been called in, sold, or converted into money.

8. The defendants did not upon the death of the testator sell the testator's furniture, plate, linen, and china, but allowed the testator's widow to possess herself of a great part thereof, without accounting for the same, and the same has thereby been lost to the testator's estate.

9. The defendants have not invested the share of the testator's residuary personal estate given by his will to the children of the testator's son J. H., and have not accumulated one third of the rents and profits of his real estate

A.D. 1875. as directed by the said will, but have mixed the same share and rents with their own moneys, and employed them in business on their own account.

10. The defendants have sold part of the real estates of the testator, but a considerable part thereof remains unsold.

11. A receiver ought to be appointed of the outstanding personal estate of the testator, and the rents and profits of his real estate remaining unsold.

The plaintiffs claim :—

1. That the estate of the said testator may be administered, and the trusts of his will carried into execution under the direction of the court.
2. That it may be declared that the defendants, by carrying on the business of the said colliery instead of realising the same, have committed a breach of trust, and that the parties interested in the testator's estate are entitled to the value of the testator's interest in the said partnership property as it stood at the testator's death, with interest thereon, or at their election to the profits which have been made by the defendants in respect thereof since the testator's death, whichever shall be found most for their benefit.
3. That an account may be taken of the interest of the testator in the said colliery, and in the machinery, book debts, stock, and effects belonging thereto, according to the value thereof at the testator's death, and an account of all sums of money received by or by the order, or for the use of the defendants, or either of them, on account of the testator's interest in the said colliery, and that the defendants may be ordered to make good to the estate of the testator the loss arising from their not having realised the interest of the testator in the said colliery within a reasonable time after his decease.
4. That an account may be taken of all other personal estate of the testator come to the hands of the defendants, or either of them, or to the hands of any other person by their or either of their order, or for their or either of their use, or which, but for their wilful neglect or default, might have been so received ; and an account of the rents and profits of the testator's real estate, and the moneys arising from the sale thereof, possessed or received by or by the order, or for the use of the defendants, or either of them.
5. That the real estate of the testator remaining unsold may be sold under the direction of the court.
6. That the defendants may be decreed, at the election of the parties interested in the testator's estate, either to pay interest at the rate of 5l. per cent. per annum upon such moneys belonging to the estate of the testator as they have improperly mixed with their own moneys and employed in business on their own account, and that half-yearly rests may be made in taking such account as respects all moneys which by the said will were directed to be accumulated,

or to account for all profits by the employment in their business of the said trust money. A.D. 1875.

7. That a receiver may be appointed of the outstanding personal estate of the testator, and to receive the rents and profits of his real estate remaining unsold.
8. Such further or other relief as the nature of the case may require.

[1876. B. 235.]

In the High Court of Justice,
Chancery Division.

[*Name of Judge.*]

Between *A.B.* and *C.* his wife - - - Plaintiffs,
and
E.F. and *G.H.* - - - Defendants.

Statement of Defence of the above-named Defendants.

1. Shortly after the decease of the testator, the defendants, as his executors, possessed themselves of and converted into money the testator's personal estate, except his share in the colliery mentioned in the plaintiffs statement of claim. The moneys so arising were applied in payment of part of the testator's debts and funeral and testamentary expenses, but such moneys were not sufficient for the payment thereof in full. Defence.

2. The Paradise colliery was, at the testator's decease, worked by him in partnership with *J. Y.*, and *W. Y.*, and *T. Y.*, both since deceased. No written articles of partnership had been entered into, and for many years the testator had not taken any part in the management of the said colliery, but it was managed exclusively by the other partners, and the defendants did not know with certainty to what share therein the testator was entitled.

3. Upon the death of the testator, the defendants endeavoured to ascertain the value of the testator's share in the colliery, but the other partners refused to give them any information. The defendants thereupon had the books of the colliery examined by a competent accountant, but they had been so carelessly kept that it was impossible to obtain from them any accurate information respecting the state of the concern; it was, however, ascertained that a considerable sum was due to the testator's estate.

4. Between the death of the testator and the beginning of the year 1874 the defendants made frequent applications to *J. Y.*, *W. Y.*, and *T. Y.* for a settlement of the accounts of the colliery. Such applications having proved fruitless, the defendants, in January 1874, filed their bill of complaint in the Court of Chancery against *J. Y.*, *W. Y.*, and *T. Y.*, praying for an account of the partnership dealings between the testator and the defendants thereto, and that the partnership might be wound up under the direction of the Court.

5. The said *T. Y.* died in the year 1874, and the suit was revived against *J. P.* and *T. S.*, his executors. The suit is still pending.

A.D. 1875.

6. As to the Paradise Colliery, the defendants have acted to the best of their judgment for the benefit of the testator's estate, and they deny being under any liability in respect of the said colliery not having been realised. They submit to act under the direction of the Court as to the further prosecution of the said suit and generally as to the realisation of the testator's interest in the said colliery.

7. With respect to the statements in the eighth paragraph of the statement of claim, the defendants say, that upon the death of the testator, they sold the whole of his furniture, linen, and china, and also all his plate, except a few silver teaspoons of very small value, which were taken possession of by his widow, and they applied the proceeds of such sale as part of the testator's personal estate, and they deny being under any liability in respect of such furniture, linen, china, and plate.

8. With respect to the statements in paragraph seven of the statement of claim, the defendants say that all moneys received by them, or either of them, on account of the testator's estate, were paid by them to their executors account at the bank of Messrs. H. and Co., and until the sale of the testator's real estate took place as herein-after mentioned, the balance to their credit was never greater than was necessary for the administration of the trusts of the testator's will, and they therefore were unable to make any such investment or accumulation as directed by the testator's will. No moneys belonging to the testator's estate have ever been mixed with the moneys of the defendants, or either of them, nor has any money of the testator's been employed in business since the testator's decease, except that his share in the said colliery, for the reason herein-before appearing, has not been got in.

9. In 1874, after the plaintiff *C.B.* had attained her age of 21 years the defendants sold the real estate of the testator for sums amounting to 15,080*l.*, and no part thereof remains unsold. They received the purchase moneys in December 1874, and on the day of 1875 they paid such proceeds into Court to the credit of this action with the exception of 500*l.* retained on account of costs incurred and to be incurred by them.

In the High Court of Justice,
Chancery Division.

[1876. B. No. 235.]

[*Name of Judge.*]

Between *A.B.* and *C.* his wife - - - Plaintiffs,
and
E.F. and *G.H.* - - - Defendants.

Reply.

The plaintiff joins issue with the defendants upon their defence.

No. 5.

A.D. 1875.

In the High Court of Justice,
Division.

187 . B. No.

AGENT.

Writ issued 3rd August 1875.

Between *A.B. and Company* - - - Plaintiffs,
and
E.F. and Company - - - Defendants.

Statement of Claim.

1. The plaintiffs are manufacturers of artificial manures, carrying on business at , in the county of . Claim.

2. The defendants are commission agents, carrying on business in London.

3. In the early part of the year , the plaintiffs commenced, and down to the 187 , continued to consign to the defendants, as their agents, large quantities of their manures for sale, and the defendants sold the same, and received the price thereof and accounted to the plaintiffs therefor.

4. No express agreement has ever been entered into between the plaintiffs and the defendants with respect to the terms of the defendants employment as agents. The defendants have always charged the plaintiffs a commission at per cent. on all sales effected by them, which is the rate of commission ordinarily charged by del credere agents in the said trade. And the defendants, in fact, always accounted to the plaintiffs for the price, whether they received the same from the purchasers or not.

5. The plaintiffs contend that the defendants are liable to them as del credere agents, but if not so liable are under the circumstances herein-after mentioned liable as ordinary agents.

6. On the , the plaintiffs consigned to the defendants for sale a large quantity of goods, including tons of .

7. On or about the , the defendants sold tons of part of such goods to one *G.H.* for £, at three months credit, and delivered the same to him.

8. *G.H.* was not, at that time, in good credit and was in insolvent circumstances, and the defendants might, by ordinary care and diligence, have ascertained the fact.

9. *G.H.* did not pay for the said goods, but before the expiration of the said three months for which credit had been given was adjudicated a bankrupt, and the plaintiffs have never received the said sum of £. or any part thereof.

The plaintiffs claim :—

1. Damages to the amount of £.
2. Such further or other relief as the nature of the case may require.

The plaintiffs propose that this action should be tried in the county of .

A.D. 1875.

[Title as in claim, omitting date of issue of writ.]

Statement of Defence.

Defence. 1. The defendants deny that the said commission of _____ per cent. mentioned in paragraph 4 of the claim is the rate of commission ordinarily charged by del credere agents in the said trade, and say that the same is the ordinary commission for agents other than del credere agents, and they deny that they ever accounted to the plaintiffs for the price of any goods, except after they had received the same from the purchasers.

2. The defendants deny that they were ever liable to the plaintiffs as del credere agents.

3. With respect to the eighth paragraph of the plaintiffs statement of claim, the defendants say that at the time of the said sale to the said G.H., the said G.H. was a person in good credit. If it be true that the said G.H. was then in insolvent circumstances (which the defendants do not admit), the defendants did not and had no reason to suspect the same, and could not by ordinary care or diligence have ascertained the fact.

[Title as in defence.]

Reply.

Reply. The plaintiffs join issue upon the defendants statement of defence.

No. 6.

187 . B. No.

BILL OF
EXCHANGE.In the High Court of Justice,
Division.

Writ issued 3d August 1876.

Between A.B. and C.D.

- - - - - Plaintiffs,

and

E.F. and G.H.

- - - - - Defendants.

Statement of Claim.

Claim.

1. Messrs. M.N. & Co. on the _____ day of _____ drew a bill of exchange upon the defendants for _____ l. payable to the order of the said Messrs. M.N. & Co. three months after date, and the defendants accepted the same.

2. Messrs. M.N. & Co. indorsed the bill to the plaintiffs.

3. The bill became due on the _____, and the defendant has not paid it.

The plaintiffs claim :—

[Title.]

A.D. 1875.

Statement of Defence.

1. The bill of exchange mentioned in the statement of claim was drawn and accepted under the circumstances herein-after stated, and except as herein-after mentioned there never was any consideration for the acceptance or payment thereof by the defendants.

Defence.

2. Shortly before the acceptance of the said bill it was agreed between the said Messrs. *M.N. & Co.*, the drawers thereof, and the defendants, that the said Messrs. *M.N. & Co.* should sell and deliver to the defendants free on board ship at the port of _____ 1,200 tons of coals during the month of _____, and that the defendants should pay for the same by accepting the said Messrs. *M.N. & Co.*'s draft for _____ l. at six months.

3. The said Messrs. *M.N. & Co.* accordingly drew upon the defendants, and the defendants accepted the bill of exchange now sued upon.

4. The defendants did all things which were necessary to entitle them to delivery by the said Messrs. *M.N. & Co.* of the said 1,200 tons of coals under their said contract, and the time for delivery has long since elapsed; but the said Messrs. *M.N. & Co.* never delivered the same, or any part thereof, but have always refused to do so, whereby the consideration for the defendants acceptance has wholly failed.

5. The plaintiffs first received the said bill, and it was first indorsed to them after it was overdue.

6. The plaintiffs never gave any value or consideration for the said bill.

7. The plaintiffs took the said bill with notice of the facts stated in the second, third, and fourth paragraphs hereof.

[Title.]

Reply.

1. The plaintiff joins issue upon the defendants statement of defence.

Reply.

2. The plaintiff gave value and consideration for the said bill in manner following, that is to say, on the _____ day of _____ 187____, the said Messrs. *M.N. & Co.* were indebted to the plaintiff in about _____ l., the balance of an account for goods sold from time to time by him to them. On that day they ordered of the plaintiff further goods to the value of about _____ l., which last-mentioned goods have since been delivered by him to them. And at the time of the order for such last-mentioned goods it was agreed between Messrs. *M.N. & Co.* and the plaintiff, and the order was received upon the terms, that they should indorse and hand over to him the bill of exchange sued upon, together with various other securities on account of the said previous balance, and the price of the goods so ordered on that day. The said securities, including the bill sued upon, were thereupon on the same day indorsed and handed over to the plaintiff.

A.D. 1875.

No. 7.

187 . B. No.

BILL OF
EXCHANGE
AND CON-
SIDERATION.In the High Court of Justice,
Division.

Writ issued 3rd August 1876.

Between A.B. and C.D.

and

E.F. and G.H.

- Plaintiffs,

- Defendants.

Statement of Claim.

Claim.

1. The plaintiffs are merchants, factors, and commission agents, carrying on business in London.

2. The defendants are merchants and commission agents, carrying on business at Hong Kong.

3. For several years prior to the 1875, the plaintiffs had been in the habit of consigning goods to the defendants for sale, as their agents, and the defendants had been in the habit of consigning goods to the plaintiffs for sale, as their agents; and each party always received the price of the goods sold by him for the other; and a balance was from time to time struck between the parties, and paid.

On the of , the moneys so received by the defendants for the plaintiffs, and remaining in their names, largely exceeded the moneys received by the plaintiffs for the defendants, and a balance of £. was accordingly due to the plaintiffs from the defendants.

4. On or about the 1875, the plaintiffs sent to the defendants a statement of the accounts between them, showing the said sum as the balance due to the plaintiffs from the defendants; and the defendants agreed to the said statement of accounts as correct, and to the said sum of £. as the balance due by them to the plaintiffs, and agreed to pay interest on such balance if time were given to them.

5. The defendants requested the plaintiffs to give them three months time for payment of the said sum of £., and the plaintiffs agreed to do so upon the defendants accepting the bills of exchange herein-after mentioned.

6. The plaintiffs thereupon on the drew two bills of exchange upon the defendants, one for £. and the other for £., both payable to the order of the plaintiffs three months after date, and the defendants accepted the bills.

The said bills beame due on the 187 , and the defendants have not paid the bills, or either of them, nor the said sum of £.

The plaintiffs claim:—

£. and interest to the date of judgment.

The plaintiffs propose that the action should be tried in London.

No. 8.

A.D. 1875.

In the High Court of Justice,
Division.

187 . B. No.

Writ issued []

[THE "IDA."]*

Between A.B. and C.D. - - - Plaintiffs,
and
E.F. and G.H. - - - Defendants.

Statement of Claim.

[1. The "Ida" is a vessel of which no owner or part owner was, at the time of the institution of this cause, domiciled in England or Wales.]† Claim.

2. In the month of February 1873, Messrs. L. and Company, of Alexandria, caused to be shipped 6,110 ardebs of cotton seed on board the said vessel, then lying in Port Said (Egypt), and the then master of the vessel received the same, to be carried from Port Said to Hull, upon the terms of three bills of lading, signed by the master, and delivered to Messrs. L. and Company.

3. The three bills of lading, being in form exactly similar to one another, were and are, so far as is material to the present case, in the words, letters, and figures following, that is to say :—

"Shipped in good order and well conditioned by L. & Co. Alexandria (Egypt) in and upon the good ship called the 'Ida,'
" whereof is master for the present voyage Ambrozio Chiapella, and
" now riding at anchor in the port of Port Said (Egypt) and bound
" for Hull, six thousand one hundred and ten ardebs cotton seed being
" marked and numbered as in the margin, and are to be delivered in
" the like good order and well-conditioned at the aforesaid Port of
" Hull (the act of God, the Queen's enemies, fire and all and every
" other dangers and accidents of the seas, rivers, and navigation of
" whatever nature and kind soever, save risk of boats so far as ships
" are liable thereto excepted), unto order or to assigns paying freight
" for the said goods at the rate of (19s.) say nineteen shillings sterling
" in full per ton of 20 cwt. delivered with £10 gratuity. Other conditions as per charter-party, dated London, 4th October 1872, with
" primage and average accustomed. In witness whereof the master
" or purser of the said ship hath affirmed to three bills of lading all
" of this tenor and date, the one of which three bills being accomplished the other two to stand void. Dated in Port Said (Egypt)
" 6th February 1873. 100 dunnage mats. Fifteen working days
" remain for discharging."

4. The persons constituting the firm of Messrs. L. and Company are identical with the members of the plaintiffs firm.

* In Admiralty action insert name of ship.

† A statement to this effect may be inserted if the action be under sect. 6 of the Admiralty Act, 1861.

A.D. 1875

5. The vessel sailed on her voyage to Hull, and duly arrived there on or about the 7th day of May 1873.

6. The cotton seed was delivered to the plaintiffs but not in as good order and condition as it was in when shipped at Port Said; but was delivered to the plaintiffs greatly damaged.

7. The deterioration of the cotton seed was not occasioned by any of the perils or causes in the bills of lading excepted.

8. By reason of the premises the plaintiffs lost a great part of the value of the said cotton seed, and were put to great expense in and about keeping, warehousing, and improving the condition of the said cotton seed, and in and about having the same surveyed.

The plaintiffs claim the following relief:—

1. *l.* for damages, [*and the condemnation of the said vessel and the defendant and his bail in the same]:
2. Such further relief as the nature of the case requires.

[Title.]

Defence.

Defence.

Statement of:—

1. They deny the truth of the allegations contained in the sixth, seventh and eighth articles of the said petition.

2. The deterioration, if any, to the cotton seed was occasioned by the character and quality of the cotton seed when shipped on board the "Ida," and by the inherent qualities of the cotton seed, and by shipping water in a severe storm which occurred on the day of in latitude during the voyage, or by some or one of such causes.

[Title.]

Reply.

Reply.

The plaintiffs join issue upon the statement of defence.

No. 9.

BOTTOMRY. In the High Court of Justice,
Admiralty Division.

187 . B. No.

Writ issued [].

THE "ONWARD."

Between A.B. and C.D. - - Plaintiffs,
and
E.F. and G.H. - - Defendants.

Statement of Claim.

Claim.

1. The "Onward," a ship of 933 tons register, or thereabouts, belonging to the United States of America, whilst on a voyage from Moulmein to

* This may be inserted if the action be an Admiralty action in rem.

A.D. 1875

Queenstown or Falmouth, for orders, and from thence to a port of discharge in the United Kingdom or on the Continent, between Bordeaux and Hamburg, both ports inclusive, laden with a cargo of teak timber, was compelled to put into Port Louis, in the island of Mauritius, in order to repair and refit.

2. The master of the "Onward," being without funds or credit at Port Louis, and being unable to pay the expense of the said repairs, and the necessary disbursements of the said ship at Port Louis, so as to enable the said ship to resume and prosecute her voyage, and after having communicated with his owners and with the owners and consignees of the cargo was compelled to resort to a loan of 24,369 dollars on bottomry of the said ship, her cargo and freight, for the purpose of enabling him to pay the said expenses and disbursements, which sum Messrs. H. and Company, of Port Louis, at the request of the master by public advertisement, advanced to the said master at and after the rate of 128 dollars for every 100 dollars advanced, and accordingly the said master, by a bond of bottomry, dated the 13th of October 1870, by him duly executed in consideration of the sum of 24,369 dollars, Mauritius currency, paid to him by the said Messrs. H. and Company, bound himself and the said ship and her cargo, namely, about 940 tons of teak timber, and her freight, to pay unto Messrs. H. and Company, their assigns, or order or indorsees, the said sum of 24,369 dollars with the aforesaid maritime premium thereon, within twenty days next after the arrival of the "Onward" at her port of discharge, from the said intended voyage, the said payment to be made both in capital and interest in British sterling money, at and after the rate of 4s. for every dollar, with a condition, that in case the said ship and cargo should be lost, during her voyage from Port Louis to Queenstown or Falmouth, for orders, and thence to her port of discharge in the United Kingdom or on the Continent between Bordeaux and Hamburg, both ports inclusive, then, that the said sum of 24,369 dollars, and maritime premium thereon, should not be recoverable.

3. The "Onward" subsequently proceeded on her voyage, and on the 7th of February 1871, arrived with her cargo on board at the port of Liverpool, which was her port of discharge.

4. The bond was duly indorsed and assigned to the plaintiffs.

5. The ship has been sold by order of the Court, and the proceeds of the sale thereof have been brought into Court, and the freight has also been paid into Court.

6. The said sum of 24,369 dollars, with the maritime premium thereon, still remain due to the plaintiffs. By a decree made on the 10th of May 1871, the Court pronounced for the validity of the bond, so far as regarded the ship and freight, and condemned the proceeds of the ship and freight in the amount due on the bond. The principal and premium still remain owing to the plaintiffs, and the proceeds of the said ship and her freight available for payment thereof are insufficient for such payment.

The plaintiffs claim :—

1. That the Court pronounce for the validity of the bond so far as regards the cargo :

A.D. 1875.

2. That the Court condemn the defendants and their bail in so much of the amount due to the plaintiffs on the bond, for principal, maritime premium, and for interest from the time when such principal and premium ought to have been paid, as the proceeds of the ship and freight available for payment of the bond shall be insufficient to satisfy, and in costs:
3. Such further relief as the nature of the case requires.

[Title.]

Defence.

Defence.

The defendants say that the—

1. Several averments in the second article of the statement contained are respectively untrue, except the averment that the bottomry bond therein mentioned was given and executed.

3. The “Onward” proceeded on the voyage in the first paragraph of the claim mentioned, under a charter-party made between the defendants and the owners of the vessel, who resided at New York. And the cargo in the said paragraph mentioned belonged to the defendants, and was shipped at Moulmein, by Messieurs T., F., and Company, of Moulmein, consigned to the defendants.

4. When the “Onward” put into Port Louis, the master placed his ship in the hands of Messieurs H. and Company, the persons in the second paragraph of the claim mentioned, and the repairs and disbursements in the said second article mentioned were made, directed, and expended under the orders, management, and on the credit of said Messieurs H. and Company, who at the outset contemplated the necessity of securing themselves by the hypothecation of the ship, freight, and cargo.

5. The master of the “Onward” and Messieurs H. and Company did not communicate to the said shippers of the cargo, or to the defendants who carried on business at Glasgow, as the master knew the intention of hypothecating the ship, freight, and cargo, or the circumstances which might render such hypothecation advisable or necessary, but on the contrary, without reasonable cause or excuse, abstained from so doing, although the comparatively small value of the ship and freight to be earned, rendered it all the more important that such communication should have been made.

6. A reasonable and proper time was not allowed to elapse between the advertisements for the bottomry loan, and the acceptance of Messieurs H. and Company’s offer to make such loan.

[Title.]

Reply.

Reply.

1. The plaintiffs say that the defendants, since the 31st day of December 1868, have been the only persons forming the firm of T., F., and Co., of Moulmein, mentioned in the third paragraph of the defence.

A.D. 1875.

2. After the master of the "Onward" put into Port Louis as aforesaid, he employed Messieurs H. and Company, in the claim mentioned, as his agents, and by his directions they by letter communicated to the defendants firms at Moulmein and Glasgow the circumstances of the ship's distress, and the estimated amount of her repairs.

3. The said Messieurs H. and Company shortly after the said ship was put into their hands at Port Louis, offered the said master, in case he should require them to do so, to make the necessary advances for the ship's repairs, and to take his draft at 90 days sight on Messrs. B. Brothers, of London, at the rate of 5 per cent. discount for the amount of the advances, together with a bottomry bond on ship, cargo, and freight as collateral security, the bond to be void should the draft be accepted. The said master, and the said Messieurs H. and Company, by letter, communicated to the owners of the "Onward" the circumstances of the said ship's distress, and the aforesaid offer of the said Messrs. H. and Company, and the said master by his letter requested the said owners to give him their directions on the subject. The said owners shortly after receiving such letters, by letter communicated with the defendants at Glasgow, and forwarded to them copies of the said lastly-mentioned letters of the said master, and of the said Messrs. H. and Co.

4. The defendants houses at Moulmein and Glasgow respectively received the letters referred to in the second paragraph of this reply in time to have communicated with the said master at Port Louis before the giving of the said bottomry bond.

5. The defendants received the said copies of letters referred to in paragraph 4 of this reply, in time for them to have communicated thereon with the said master at Port Louis before the giving of the said bond.

6. The defendants did not at any time answer the said communications of the said Messrs. H. and Company, or in any way communicate or attempt to communicate with the said master, or to direct him not to give, or to prevent him from giving the said bottomry bond on the said cargo.

7. The said bond was duly advertised for sale, and was subsequently, and after a proper interval had elapsed, sold by auction in the usual way. There were several bidders at the sale, and the said Messrs. H. and Company were the lowest bidders in premium, and the said bond was knocked down to them. The said bond was not advertised for until the said ship was ready for sea, and up to that time the master of the said ship had expected to hear from her owners, and had hoped to be put in funds, and had not finally determined to resort to bottomry of the said ship, or her cargo or freight.

8. Save as herein appears the plaintiffs deny the truth of the several allegations contained in the said answer.

[NOTE.—The facts stated in this reply should, in general, be introduced by amendment into the statement of claim.]

A.D. 1875.

[Title.]

Rejoinder.

Rejoinder.

The defendants join issue upon the plaintiffs reply.

No. 10.

187 . B. No.

CHARTER-
PARTY.In the High Court of Justice,
Division.

Writ issued 3rd August 1876.

Between A.B. and C.D.	-	-	-	Plaintiffs,
		and		
E.F. and G.H.	-	-	-	Defendants.

Statement of Claim.

Claim.

1. The plaintiffs were, on the 1st August 1874, the owners of the steamship "British Queen."

2. On the 1st August 1874, the ship being then in Calcutta, a charter-party was there entered into between John Smith, the master, on behalf of himself and the owners of the said ship, of the one part, and the defendants of the other part.

3. By the said charter-party it was agreed, amongst other things, that the defendants should be entitled to the whole carrying power of the said steamship for the period of four months certain, commencing from the said 1st August 1874, upon a voyage or voyages between Calcutta and Mauritius and back; that the defendants should pay for such use of the said steamship to the plaintiffs agents at Calcutta, monthly, the sum of 1,000*l.*; that the charter should terminate at Calcutta; and that if at the expiration of the said period of four months the said steamship should be upon a voyage, then the defendants should pay pro ratâ for the hire of the ship up to her arrival at Calcutta, and the complete discharge of her cargo there.

4. The "British Queen" made several voyages in pursuance of the said charter-party, and the first three monthly sums of 1,000*l.* each were duly paid.

5. The period of four months expired on the 1st December 1874, and at that time the steamship was on a voyage from Mauritius to Calcutta. She arrived at Calcutta on the 13th December, and the discharge of her cargo there was completed on the 16th December 1874.

6. The plaintiffs agents at Calcutta called upon the defendants to pay to them the fourth monthly sum of 1,000*l.*, and a sum of 500*l.* for the hire of the steamship from the 1st to the 16th December 1874, but the defendants have not paid any part of the said sums.

The plaintiffs claim—

The sum of 1,500*l.*, and interest upon 1,000*l.*, part thereof, from the 1st December 1874, until judgment.

The plaintiffs propose that this action should be tried in London.

[Title.]

A.D. 1875.

Statement of Defence.

1. By the charter-party sued upon it was expressly provided that if any accident should happen to, or any repairs should become necessary to the engines or boilers of the said steamship, the time occupied in repairs should be deducted from the period of the said charter, and a proportionate reduction in the charter money should be made.

Defence,

2. On the repairs became necessary to the engines and boilers of the steamship, and ten days were occupied in effecting such repairs.

3. On the an accident happened to the engines of the steamship at Mauritius, and two days were occupied in effecting the repairs necessary in consequence thereof.

4. The defendants are therefore entitled to a reduction in the charter money of 400*l*.

By way of set-off and counter-claim the defendants claim as follows:—

Counter-claim.

5. By the charter-party it was expressly provided that the charterers should furnish funds for the steamship's necessary disbursements, except in the port of Calcutta, without any commission or interest on any sum so advanced.

6. The defendants paid for the necessary disbursements of the ship in the port of Mauritius between the and the 1874, sums amounting in all to 625*l*. 14*s*. 6*d*.

7. The charter-party also contained an express warranty that the steamship was at the date thereof capable of steaming nine knots an hour on a consumption of 30 tons of coal a day, and it was further provided by the charter-party that the charterers should provide coal for the use of the said steamship.

8. The steamship was at the date of the charter-party only capable of steaming less than eight knots to an hour, and that only on a consumption of more than 35 tons of coal a day.

9. In consequence of the matters mentioned in the last paragraph, the steamship finally arrived at Calcutta at least 15 days later, and remained under charter at least 15 days longer than she would otherwise have done. She was also during the whole period of the said charter at sea for a much larger number of days than she would otherwise have been, and consumed a much larger quantity of coal on each of such days than she would otherwise have done, whereby the defendants were obliged to provide for the use of the steamship much larger quantities of coal than they would otherwise have been.

The defendants claim—

l. damages in respect of the matters stated in this set-off and counter-claim.

[Title.]

Reply.

1. The plaintiff joins issue upon the second, third, and fourth paragraphs of the defendant's statement of defence,

Reply.

A.D. 1875.

2. With respect to the alleged set-off stated in paragraph 6 the plaintiff does not admit the correctness of the amount therein stated. And all sums advanced by them for disbursements were paid or allowed to them by the plaintiffs by deducting the amount thereof from the third monthly sum of 1,000*l.* paid (subject to such deduction) to the plaintiffs agents at Calcutta by the defendant on or about the 12th November 1874.

3. With respect to the alleged breach of warranty and the alleged damages therefrom stated in the 7th, 8th, and 9th paragraphs, the plaintiffs say that the steamship was at the date of the charter-party capable of steaming nine knots an hour on a consumption of 30 tons of coal a day. If the steamship did not, during the said charter, steam more than eight knots an hour, and that on a consumption of more than 35 tons a day, as alleged (which the plaintiffs do not admit), it was in consequence of the bad and unfit quality of the coals provided by the defendants for the ship's use.

[Title.]

Joinder of issue.

Rejoinder.

The defendants join issue upon the plaintiffs reply to their set-off and counter-claim.

No. 11.

187 . B. No.

COLLISION.

In the High Court of Justice,
Admiralty Division.

Writ issued []

THE "AMERICAN."

Between *A.B.* and *C.D.* - - - - Plaintiffs,
and
E.F. and *G.H.* - - - - Defendants.

Statement of Claim.

Claim.

1. Shortly before 8 a.m. on the 9th of December 1874, the brigantine "Katie," of 194 tons register, of which the plaintiffs were owners, manned by a crew of eight hands all told, whilst on a voyage from Dublin to St. John's, Newfoundland, in ballast, was in latitude about 46° N., and longitude 40° 42' W., by account.

2. The wind at such time was about W. by S., a strong breeze, and the weather was clear, and the "Katie" was under double-reefed mainsail, reefed mainstaysail, middle staysail, lower topsail, reefed fore staysail, and jib, sailing full and by on the port tack, heading about N.W. $\frac{1}{2}$ N., and proceeding at the rate of about five knots and a half per hour.

3. At such time a steamship under steam and sail, which proved to be the screw steamship "American," was seen at the distance of three or four miles from the "Katie," broad on her port bow, and steering about E. or E. by S. The master of the "Katie" not having been able to take observations for several days, and her chronometer having run down, and

the said master wishing to exchange longitudes with the "American," caused an ensign to be hoisted, and marked his longitude by account on a board which he exhibited over the port side. The "Katie" was kept full and by, and the "American" approached rapidly, and attempted to pass ahead of the "Katie," and caused immediate danger of collision, and although thereupon the helm of the "Katie" was put hard a-port and her mainsheet let go, the "American" with her stem struck the "Katie" on her port side, almost amidships, cutting her nearly in two, and the "Katie" sank almost immediately, her crew being saved by the steamer.

A.D. 1875.

4. The "American" improperly neglected to keep clear of the "Katie."
5. The "American" improperly attempted to pass ahead of the "Katie."
6. The "American" improperly neglected to ease her engines, and improperly neglected to stop and reverse her engines in due time.

The plaintiff claims:—

1. That it may be declared that the plaintiffs are entitled to the damage proceeded for:
2. That the bail given by the defendants be condemned in such damage, and in costs:
3. That the accounts and vouchers relating to such damage be referred to the Registrar assisted by merchants to report the amount thereof:
4. Such further and other relief as the nature of the case may require.

[Title.]

Statement of Defence.

The defendants say as follows:—

Defence.

1. The "American" is a screw steamship, of 1,368 tons register, with engines of 200-horse power nominal, belonging to the port of Liverpool, and at the time of the occurrences herein-after mentioned was manned by a crew of 40 hands all told, laden with a cargo of general merchandise, and bound from Port-au-Prince in the West Indies to Liverpool.

2. About 8.5 a.m. on the 28th of November 1874, the "American" was in latitude 46° N., longitude 38° 16' W., steering E. by S. true magnetic, making under all sail and steam about 12 knots an hour, the wind being about S.W. by S. true magnetic, blowing a strong breeze and the weather hazy, when a vessel, which afterwards proved to be the brigantine "Katie," was observed on the "American's" starboard bow about four miles distant, bearing about S.E. by E. true magnetic, close-hauled to the wind, and steering a course nearly parallel to that of the "American."

3. The "American" kept her course, and when the "Katie" was about three miles distant her ensign was observed by those on board the "American" run up to the main, and she was seen to have altered her course, and to be bearing down towards the "American." The "American's" ensign was afterwards run up, and her master, supposing that the "Katie" wanted to correct her longitude, or to speak the "American," continued on his course

A.D. 1875. expecting that the "Katie," when she had got sufficiently close to speak or show her black board over her starboard side, would luff to the wind, and pass to windward of the "American."

4. The master of the "American" watched the "Katie" as she continued to approach the "American," and when she had approached as near as he deemed it prudent for her to come, he waved to her to luff, and shortly afterwards, on his observing her to be attempting to cross the bows of the "American," the helm of the latter was immediately put to starboard, and engines stopped and reversed full speed; but notwithstanding, the "American" with her stem came into collision with the port side of the "Katie," a little forward of the main rigging.

5. The "American's" engines were then stopped, and when the crew of the "Katie" had got on board of the "American," the latter's engines were reversed to get her clear of the "Katie," which sunk under the "American's" bows.

6. The "Katie" improperly approached too close to the "American."

7. Those on board the "Katie" improperly neglected to luff, and to pass to windward of the "American."

8. Those on board the "Katie" improperly attempted to cross the bows of the "American."

9. Those on board the "Katie" improperly ported her helm before the said collision.

10. Those on board the "Katie" improperly neglected to starboard her helm before the said collision.

[Title.]

Reply.

Reply. The plaintiffs join issue upon the defendants statement of defence.

No. 12.

187 . . B. No.

EQUIPMENT
OF SHIP.

In the High Court of Justice,
Admiralty Division.

Writ issued [.]

THE "TWO ELLENS."

Between A.B. and C.D. - - - Plaintiffs,
and
E.F. - - - Defendant.

Statement of Claim.

Claim.

1. The said vessel was and is a British Colonial vessel, belonging to the Port of Digby, in Nova Scotia, of which no owner or part owner was at the time of the commencement of this action or is domiciled in England or Wales.