

THE DISTRICT COURT RULES, 1891⁽¹⁾⁽²⁾ (QUEENSLAND, ADOPTED) IN THEIR APPLICATION TO THE TERRITORY OF PAPUA.

IN pursuance of the powers conferred upon us by "*The District Courts Act, 1891*," we, George William Paul, Granville George Miller, and Arthur Baptist Noel, Esquires, being the District Court Judges duly appointed under the said Act, hereby make the following General Rules for regulating the practice and proceedings in the District Courts of the Colony of Queensland, and hereby prescribe the following schedule of forms for any matter or proceeding therein.

These Rules may be cited as "*The District Court Rules, 1891*."

1. The schedule of scale of fees, hereunto annexed, shall form part of these Rules.

Interpretation.

2. In the construction of these Rules, words importing the singular number shall include the plural, and words importing the plural shall include the singular number, and words importing the masculine gender shall include the feminine; and the following terms shall (if not inconsistent with the context or subject matter) have the respective meanings hereinafter assigned to them, that is to say:—

"Affidavit" shall include statutory declarations and affirmations, and the word "sworn" shall include declared and affirmed according to statute.

"Clear days" shall mean that in all cases in which any particular number of days is prescribed for doing any act or for any other purpose, the same shall be reckoned exclusive both of the first and of the last day.

(1) Particulars of these Rules of the District Court of Queensland are set out in the following Table:—

RULES OF THE DISTRICT COURT OF QUEENSLAND.

Citation.	Rules of Court of the Territory of Papua by which adopted.	Date on which adoption took effect.
<i>The District Court Rules, 1891</i> (Queensland, adopted)	<i>Rules of the Central Court for Regulating Civil Procedure and the Admission of Barristers and Solicitors</i>	2.2.1910 (Papua Govt. Gaz. of 2.2.1910)

(2) See footnote (2) to *The District Courts Act, 1891* (Queensland, adopted), printed on p. 671.

COURTS—

- “Foreign Court”—The Court of the District into which the process is issued from another Court.
- “Foreign District”—The District into which process is issued from another District.
- “Home Court”—The Court from which process is originally issued.
- “Home District”—The District from which process is originally issued.
- “Month”—Calendar month.
- “Ordinary summons”—A summons under section 62.
- “Oath” shall include Statutory affirmation.
- “Sealed”—Sealed with the seal of the particular District Court.
- “Special summons”—A summons under section 64.
- “The Act”—“*The District Courts Act, 1891.*”⁽³⁾
- “Trial”—The trial of the action or the hearing of any matter in Court.

Section 3.

And unless there be something in the context inconsistent therewith, the provisions of the 3rd section of the Act shall apply to the interpretation of these Rules.

Registrars' duties.

Sections 31 to 35.

3. The Registrar shall keep an office at each place where the Court of which he is Registrar is holden, and such office shall be kept open on such days, and for such hours, as the judge shall from time to time appoint.

4. The Registrar shall keep the books in the forms set forth in the schedule, and every entry in such books shall have a number prefixed corresponding with that of the plaint to which the entry relates.

5. The duties of acting in Court as Registrar, and signing the minute book, shall be performed by the Registrar.

6. The Registrar of the Court shall sign and issue all summonses and warrants forthwith after the plaints are entered or warrants applied for.

(3) See *The District Courts Act, 1891* (Queensland, adopted), printed on p. 671.

7. Where a summons is required to be served by a bailiff in a foreign district, the Registrar shall transmit the same, and a copy thereof to the bailiff of the foreign district, with a letter according to the form in the schedule; and if the summons be returned to the Registrar by the bailiff of the foreign district not served, the Registrar shall forthwith give notice to the plaintiff of such non-service.

8. The Registrar shall in all cases in which a summons is to be served by a bailiff in a foreign district, require the plaintiff to deposit with him a sum of money sufficient to defray the expenses of, and incident to, such service.

9. The Registrar shall in all cases, where by these Rules particulars are required, annex to the summons a copy of the plaintiff's particulars, sealed with the seal of the Court; and shall also make and deliver to the bailiff a true copy of the summons for endorsement, as required by Rule 22.

10. Searches may be made, and the money to which suitors are entitled shall be paid out upon demand, during office hours.

11. Whenever money is paid into, or deposited in Court, whether before or after judgment, an acknowledgment in writing of such payment or deposit shall be given by the Registrar.

12. No officer of the Court, and no partner or clerk of any such officer shall, on account of suitors, sign the ledger, or any other book, or receive money, or otherwise act as an agent for that purpose.

13. No officer of the Court, or practising attorney, or clerk of such officer or attorney, shall become surety in any case where by the practice of the Court security is required.

14. In proceedings for which forms are not provided in the Schedule, the Registrar shall frame the forms required, using as guides those so provided, or the forms used in the Supreme Court.

15. Upon receiving the order of the Supreme Court, under section 129 or section 130 of the Act, the Registrar shall forthwith apply to the Judge of the District Court to appoint a day for the hearing of the action.

16. Where under sections 129 or 130 of the Act, any action is ordered to be tried in a District Court, the registrar of the District Court mentioned in the order shall enter the action in the minute-book of the Court for hearing on the day appointed by the judge of such Court, and shall give notice to the parties pursuant to section 129 of the Act.

COURTS—

17. Orders for payment of money or costs or both, and orders of adjournment, when directed to be served, shall in all cases be prepared by the Registrar of the home Court and delivered to the bailiff, who shall send them by post or otherwise to the parties on whom they are respectively directed to be served.

18. In all cases of warrants to be executed in a foreign district, the Registrar of the foreign Court shall, immediately on the receipt of the warrant, enter it in the Foreign Execution Re-Issued Book.

19. Every registrar or other officer of a District Court who shall receive any document, note, or memorandum to which a stamp shall be affixed, pursuant to the provisions of any order or rule of court, shall, immediately upon the receipt of such document, note, or memorandum, cancel or deface the stamp thereon, either by sealing the same with a seal, to be provided for that purpose, having thereon the date of such cancellation, or by writing upon such stamp his name, or the initial letters of his name, together with the date of receiving such stamp, in such a manner as to show clearly and distinctly that such stamp has been made use of, and when the same was so used, and so that the same may not again be used; and no such document, note, or memorandum shall be sealed, filed, or delivered out until the stamp thereon shall have been cancelled or defaced in manner aforesaid.

Bailiff's duties.

Sections 36 to 41.

20. The bailiff shall keep books and make returns in the forms set forth in the Schedule.

21. The bailiff shall attend personally, or by his lawful deputy, at the office of the Registrar, when necessary, for the purpose of receiving summonses, and for performing any other duty; and shall, at the said office, compare with the original the copy of every summons delivered to him, so as to be able to prove its correctness, provided that in Brisbane the attendance shall be daily.

22. If the service of the summons has been personal, the bailiff who served the same shall endorse on the copy of the summons delivered to him by the Registrar, the fact and mode of such service; and, if the service has not been personal, he shall endorse on the copy of the summons the statement which has been made by the person to whom the summons was delivered, or other circumstances from which it may be inferred that the service of the summons has come to the knowledge of the defendant; and, if the summons has not been served, the bailiff shall endorse on such copy the fact and the reason

of such non-service, and shall deliver such summons and copy to the Registrar with a list of summonses mentioned in Rule 24, unless the Judge shall otherwise order, and such copy shall be produced, at the time of the trial, by the Registrar or bailiff, as the Judge may require.

23. Where a summons has been served in a foreign district by the bailiff of that district, he shall, nine clear days before the return day of summons, transmit the copy thereof to the Registrar of the home district with an affidavit of such service, or if the summons has not been served he shall return it with an affidavit stating why it has not been served; and the affidavit shall state the same particulars as to service or non-service (as the case may be) as are required by the last preceding rule to be endorsed on a summons; and if such affidavit be defective, the bailiff shall amend the same at his own expense in conformity with the directions of the Judge of the home district.

24. Four days before the day of holding any Court the bailiff shall deliver to the Registrar a list of all summonses on plaints issued to him, returnable at such Court, and such return shall state the date and mode of service, or the cause of non-service of each summons, and the bailiff shall at the same time, unless the Judge shall otherwise order, deliver to the Registrar the copy of every such summons which has been served and the summons itself and copy when not served; and the bailiff shall verify by affidavit all the statements contained in the list aforesaid.

25. Where the service of any summons has been undertaken by the plaintiff, or any competent person employed by him, the copy of such summons if served, or the summons itself and copy if not served, shall be returned to the bailiff at least six days before the return day thereof, together with an affidavit verifying the service or cause of non-service of such summons.

26. Where a summons has not been served, and the summons remains in the hands of the bailiff, he shall at the time of making out the list aforesaid give notice to the plaintiff of the fact of such non-service in the form set forth in the Schedule.

27. The bailiff shall enter in the order book all orders for the payment of money or costs, or both, which he shall have received, and the date on which he shall have caused the same to be posted, or otherwise forwarded.

28. The bailiff shall enter in his warrant book every warrant which he has been required to execute, and shall state from time to time therein what he shall have done under each warrant, and if the same be not executed within one calendar month from the day of its delivery to him, why it was not executed; and the bailiff shall, at

COURTS—

all reasonable times, give to a suitor every information that he may reasonably require, as to the execution, or non-execution, of any warrant which has been issued at the instance of such suitor.

29. Every bailiff levying or receiving any money, by virtue of any process issuing out of the Court of which he is bailiff, shall forthwith pay over the same to the Registrar of such Court, and file such process in the office of the Registrar.

30. Whenever a warrant required to be executed in a foreign district, has not been executed within one calendar month from the day of its receipt by the bailiff of the foreign court, such bailiff shall, on the day after the termination of such month, make a return to the Registrar of the home court of what he shall have done under such warrant, and why it has not been executed; and when the same warrant has not been executed during the time it is in force, such bailiff shall return the same to the said Registrar, within twenty-four hours from the expiration of such time, and shall endorse on such warrant the reason why the same could not be executed, and he shall sign such endorsement, but the bailiff shall return such warrant to the said Registrar at any time, although unexecuted, if he shall be directed to do so by the said Registrar, or shall give such information as such Registrar may require in the matter of the warrant.

31. Whenever a warrant has been executed by the bailiff of the foreign district under section 173 of the Act, he shall make return forthwith of what he has done to the bailiff of the home district, and shall also forthwith transmit all moneys received under the said warrant to the Registrar of the Court from which it was issued.

Replevin.

Section 59.

32. In actions of replevin no other cause of action shall be joined in the summons.

33. The plaint must be in the form given in the 3rd Schedule to the "*Distress Replevin and Ejectment Act of 1867.*"⁽⁴⁾

Agreement under Section 61.

Section 61.

34. Where the parties in pursuance of section 61 of the Act agree to try any action in a District Court, a plaint shall be entered, and a summons issued thereon as in other cases, and in such cases the

(4) See the *Distress Replevin and Ejectment Act of 1867* (Queensland, adopted), printed below, title LAND.

rules and practice of the Court shall be adopted, so far as the same are applicable.

35. Every plaint, except plaints on which special summonses under section 64 of the Act are issued, shall be entered in the Plaint Book twenty-one clear days before the return day of the summons, except in the Brisbane district, where it shall be entered twelve clear days.

Plaint.

Section 62.

36. Where the plaintiff is unacquainted with the defendant's christian name, the defendant may be described in the plaint summons and other documents by his surname or by his surname and the initial of his christian name, or by such name as he is generally known; and in the event of the plaintiff or defendant not appearing, the proceedings under sections 109 and 110 of the Act may be taken, as if the true christian name and surname had been stated in the plaint summons or other document, and all subsequent proceedings thereon may be taken in conformity with such description, but without prejudice to any amendment to be made at any future time by direction of the Judge.

37. When an infant applies to enter a plaint for any cause of action (other than for wages or piecework, or for work or services as a clerk, servant, mechanic, or labourer) he shall, at the time of entering the plaint, procure the attendance of a next friend, to be approved by the Registrar, and no plaint shall be entered until the next friend has undertaken, in the form set forth in the Schedule hereto, to be responsible for costs, who, on entering into such undertaking, shall be liable in the same manner, and to the same extent, as if he were a plaintiff in an ordinary suit, and the cause shall proceed in the name of the infant by such next friend, and the undertaking shall be filed by the Registrar, but no order of the Court shall be necessary for the appointment of such next friend. If the plaintiff fail in or discontinue his suit, and do not pay the amount of the costs awarded by the Court to be paid by him to the defendant, **proceedings** may be taken for the recovery of such amount from the next friend as for the recovery of any debt ordered to be paid by the Court.

38. On entering the plaint, the plaintiff shall in all cases deliver at the office of the Registrar, as many copies of a statement of the particulars of his demand or cause of action as there are defendants, and an additional copy to be filed; and where the demand exceeds £200, but the plaintiff desires to abandon the excess or to admit a set-off, and sues in a District Court for the residue, the abandonment

COURTS—

or the admission of the set-off shall be entered on the particulars and the copies thereof before service, and in all cases the particulars shall be deemed part of the summons, and shall be served therewith.

39. At the time of entering the plaint, the Registrar shall give to the plaintiff or his attorney or agent, a note under the seal of the Court according to the form in the Schedule; and no money shall be paid out of Court to the plaintiff or his attorney or agent, unless on production of such note; provided that in the event of such note being lost or destroyed, no money shall be paid to any person unless it be proved on oath to the satisfaction of the Registrar that the person applying is the plaintiff or his agent authorised in that behalf.

Ordinary summons.

Section 62.

40. The summons to appear to a plaint shall be in the form⁽⁵⁾ set forth in the Schedule, and shall be dated of the day on which the plaint is entered, and the date thereof shall be the commencement of the action.

41. Where a summons has not been served, successive summonses may be issued without entering a new plaint, unless the non-service has been caused by the fact of the defendant's having removed from the address given before the entry of the plaint, or unless the plaintiff shall have given a wrong or insufficient address; but if the bailiff shall ascertain that the defendant has removed to some other place within the district of the Court, he shall serve the summons at such other place, endorsing on the copy thereof the new address, and the successive summons or summonses shall bear the same date and number as the summons first issued, which date and number shall be written in red ink in the plaint book, and such summonses shall be a continuance of the first summons; provided that no successive summons shall be issued on a plaint which has been entered more than six months.

42. A summons to appear to a plaint, where it is to be served in the home district, shall be served at least eighteen clear days, and where it is to be served in a foreign district shall be served at least twenty-one clear days before the return day thereof; provided that a summons may be served at any time before the return day on production by the plaintiff to the registrar of an affidavit showing that the defendant is about to remove out of the ordinary jurisdiction of the Court, and service of such summons at any time before the return day may be deemed good service, if at the hearing the Judge

(5) As to the form of a summons in the Supreme Court of Papua, see the Schedule to the *Rules of Civil Procedure*, printed on p. 618.

is satisfied on the evidence on oath before him that such party was about to remove out of the ordinary jurisdiction of the Court; but in any such case, whether such proof be given or not, the Judge may, in his discretion, and on such terms as he shall think fit, adjourn the hearing. It is also provided that in the Brisbane District the time for service shall be eight clear days before the return day of the summons.

43. Successive summonses may be issued without leave of the Court for the purpose of preventing the operation of any statute whereby the time for the commencement of any action is, or may be, limited, and the first and each subsequent summons shall be in force for six calendar months from the time of issuing the same, including the day of such issuing, and such subsequent summons shall be issued before the expiration of the previous summons, and entered in the Plaint Book of the Court: Provided that on entering the plaint in the first instance the usual fee shall be paid, but for such subsequent summonses no further fee shall be paid, nor shall it be necessary that any attempt be made to serve the first summons, or any successive summonses, unless the plaintiff require the same, and such successive summonses shall be a continuance of the action on and from the day on which the first summons was issued.

44. Where a summons has been served in due time to prevent the operation of any Statute of Limitations and either party dies after such service, and after the lapse of the period within which it is provided that an action may be brought, proceedings may be taken by or against the surviving party, or by or against the personal representative of the deceased party, within one year from the date of holding the Court at which the summons required the defendant to appear.

Special Summons under Section 64.

Section 64.

45. The summons shall be in the form⁽⁵⁾ set forth in the Schedule, and shall be dated of the day on which the plaint is entered, and the date thereof shall be the commencement of the action.

46. Every special summons shall be in force for six months from the day of the date thereof, including the day of such date, and may be served on the defendant or defendants therein named at any time within that period.

47. If any defendant named in the special summons shall not have been served therewith, the plaintiff may, before the expiration of the

(5) As to the form of a summons in the Supreme Court of Papua, see the Schedule to the *Rules of Civil Procedure*, printed on p. 618.

COURTS—

six months, apply to a Judge for leave to renew the summons, and the Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original summons may be renewed for six months from the date of such renewal, and so from time to time during the currency of the renewed summons.

48. The summons shall be renewed by being indorsed with the word "Renewed," and signed by the Registrar, and sealed with a seal bearing the date of the day, month, and year of such renewal.

Service of Ordinary Summons.⁽⁶⁾

Section 65.

49. Where a defendant is living or serving on board of any ship or vessel, it shall be sufficient service to deliver the summons to the person on board who is, at the time of such service, apparently in charge of such ship or vessel.

50. Where a defendant is residing or quartered in any barracks, and serving Her Majesty as a soldier or marine, it shall be sufficient service to deliver the summons at the barracks to the adjutant of the corps, or to any officer or sergeant of the company or troop to which such soldier or marine belongs.

51. Where a defendant is a prisoner in a gaol it shall be sufficient service to deliver the summons at the gaol to the governor or any person appearing to be the head officer in charge thereof.

52. Where a defendant is working in any mine or other works underground, it shall be sufficient service to deliver the summons at the mine or works to the engine-man, banksman, or other person apparently in charge of the mine or works.

53. Where the defendant is employed and dwells in any lunatic or other public asylum, or in any gaol or house of correction, it shall be sufficient service to deliver the summons to the gate-keeper or lodge-keeper of the asylum, gaol, or house of correction.

54. Where a defendant keeps his house or place of dwelling or of business closed, in order to prevent a bailiff from serving the summons, it shall be sufficient service to affix such summons on the door of such house or place of business.

55. Where a bailiff is prevented by the violence or threats of the defendant, or of any other person or persons in concert with him, from

(6) As to the rules of the Supreme Court of Papua for the service of summonses, see Rule 19 of the *Rules of Civil Procedure*, printed on p. 602, and the *District Court Rules (Service of Summonses)* of 1st January 1866 (Queensland, adopted), printed on p. 626.

personally serving such summons, it shall be sufficient service to leave such summons as near to the defendant, or to his house, or place of dwelling, or of business, as may be practicable.

56. Wherever a summons has been served in one of the modes hereinbefore mentioned, but it appears that it has come to the knowledge of the defendant in less time than the period prescribed by these Rules before the return day, the cause may, at the discretion of the Judge, proceed or be adjourned, whether the defendant appears or not at the hearing.

57. Where an infant is defendant in any action or matter, service on his father or guardian, or (if none) on the person with whom the infant resides, or under whose care he is, shall, unless the Judge otherwise orders, be deemed good service on such infant.

58. Where persons are sued as partners in the name of their firm, the summons shall be served either upon any one or more of the partners, or at the principal place of the partnership business, upon any person having or appearing to have at the time of service the control or management of the business there, and, subject to these Rules, such service shall be deemed good service on the firm.

59. Where one person carrying on business in the name of a firm apparently consisting of more than one person shall be sued in the firm's name, the summons may be served at the principal place of business of the firm, upon any person having or appearing to have at the time of service the control or management of the business there; and such service, if sufficient in other respects, shall be deemed good service on the person so sued.

60. Where husband and wife are both defendants in any action or matter, they shall each be separately served, unless the Judge shall otherwise order.

61. The above Rules as to the mode, but not those as to the time, of service of summons to appear to a plaint, shall apply to the mode of service of all summonses, subpoenas, processes, or notices whatsoever, except where otherwise directed by the Act, or by the Rules of the Court.

62. No summons, subpoena, order, or other process or notice shall be served on Sunday, Christmas Day, or Good Friday, or on any day appointed by proclamation for a public fast, humiliation, or thanksgiving, but such days shall be counted in the computation of the time required by these Rules in respect of such service.

COURTS—

63. If any dispute shall arise, or the Judge shall entertain any doubt, as to the due service of any summons or document, the Judge may make inquiries either on oral evidence or on affidavits whether such service was good or otherwise, or under special circumstances to order that a person who has not been regularly served, if notice of the summons shall have come to his knowledge, shall be deemed to have been sufficiently served, and the case or matter shall proceed as though such person had been regularly served.

Service of judgment summons.

64. A judgment summons may be served either on the defendant's barrister, solicitor, or legal practitioner, or personally on the defendant: Provided always that it shall be deemed good service if the Judge is satisfied that the summons has come to the knowledge of the defendant.

Notice of defence.

Section 67.

65. Except in cases where the summons is specially endorsed, whenever it is the intention of the defendant to contest the plaintiff's claim, or any part thereof, the defendant shall, at least eight⁽⁷⁾ clear days before the return day of the summons deliver, or cause to be delivered, to the Registrar of the Court a notice in writing of such intention: Provided that in the Brisbane district the time for delivery of notice of defence shall be five clear days.

66. Where the defendant intends to rely upon set-off,⁽⁸⁾ infancy, coverture, Statute of Frauds, Statute of Limitations, discharge under any act for the relief of insolvent debtors, a plea of justification in any action of tort (including wrongful dismissal) or any equitable defence, he shall, at least five clear days before the return day of the summons, deliver to the Registrar a plea setting forth such defence: Provided that by leave of a Judge the defendant may be allowed in to plead these defences at any time on such terms as to costs or otherwise as the Judge may think fit.

67. The plea shall contain the following—

- (1) If of set-off, particulars of such set-off.
- (2) If of infancy, a statement setting out the place and date of birth, if known.
- (3) If of coverture, a statement setting out the place and date of marriage, Christian name and surname of husband, and his last known place of address.

(7) See, however, Rule 26 of the *Rules of Civil Procedure*, printed on p. 603.

(8) As to set-off, see, however, Rule 33 of the *Rules of Civil Procedure*, printed on p. 605.

- (4) If of discharge under any Act for the relief of insolvent debtors, a statement setting forth the date of his certificate and the allowance thereof or the date of proof of debt by the plaintiff.
- (5) If of an equitable defence, a statement showing concisely the circumstances which gave rise to such defence, and setting forth separately each of the grounds of equitable defence.

68. Where the defence is a tender, such defence shall not be available, unless before or at the hearing of the cause the defendant pays into Court the amount alleged to have been tendered, which need not include costs.

69. If a defendant intends to contest the plaintiff's claim under a special summons, he shall, within ten clear days of service if the summons is served in a home district, and within thirteen clear days of service if the summons is served in a foreign district, file with the Registrar of the home district a notice of defence. The time for filing notice of defence in the Brisbane district shall be within five clear days after service of such summons.

70. A plaintiff may deliver amended particulars of claim and a defendant amended pleas at any time before the hearing, but the Judge may disallow such amendment at the trial or may make such order as to adjournment or otherwise as he may think fit.

71. If in any case in which the defendant has given notice of a set-off, the action of the plaintiff is stayed, discontinued, or dismissed, the defendant may nevertheless proceed to prove his set-off.

72. Where a plaintiff avails himself of the provisions of section 95 of the Act, and proceeds against any one or more of several persons jointly answerable, the defendant or defendants sued may avail himself or themselves of any set-off or other defence to which he or they would be entitled if all the persons answerable were made defendants.

73. Where the defendant gives notice of defence to a special summons, the plaintiff may, instead of taking out a judgment summons, give to the Registrar and to the defendant, or each of the defendants if there be more than one, eight clear days' notice of trial where the summons has been served in the home district, and thirteen clear days' notice where it has been served in a foreign district: Provided that a Judge, on the application of either party, may vary the times for giving such notice of trial.

COURTS—

Payment into Court before judgment.⁽⁹⁾

Section 72.

74. Where the defendant is desirous of paying money into Court, it shall (except where otherwise expressly provided) be paid eight clear days before the return day of summons, with Court fees and the attorney's costs: provided that at any time before the return day the defendant may pay money into Court with such costs as aforesaid, and give notice thereof to the plaintiff; and where money is so paid in less than eight clear days before the return day, it shall be lawful for the Court to order the defendant to pay such costs as the plaintiff shall have reasonably incurred in preparing for trial before the notice of such payment was received by him. In the Brisbane District the time for such payment shall be five clear days.

75. If the plaintiff elect to accept in full satisfaction of his claim, including costs, such money as shall have been paid into Court by the defendant, and shall send to the Registrar and to the defendant by post, or leave at the Registrar's office and at the defendant's place of dwelling, or place of business, a written notice, stating such acceptance within such reasonable time before the return day, as the time of payment by the defendant has permitted, the action shall abate, and the plaintiff shall not be liable to any further costs. But in default of such notices from the plaintiff the cause may proceed.

Withdrawal by plaintiff.

76. If the plaintiff be desirous of not proceeding in any action or matter, he may give notice thereof to the Registrar and to the defendant or his attorney, and after the receipt of such notice the defendant shall not be entitled to any further costs than those reasonably incurred up to the time of the receipt of such notice, unless the Judge shall otherwise order.

Judgment upon admission of defendant.

Section 73.

77. All confessions under section 73 of the Act shall be delivered to the Registrar eight clear days before the return day of the summons: Provided that at any time before the cause is called on the defendant may confess and admit the claim, according to the form set forth in the Schedule, subject, however, to an order by the Judge to pay such costs as the plaintiff has incurred in consequence of the defendant's not having delivered such confession, as hereinbefore required. In the Brisbane Court the time for delivering confessions under the above section shall be five clear days before the return day of the summons.

⁽⁹⁾ See, also, Rules 38 to 42 inclusive of the *Rules of Civil Procedure*, printed on p. 605.

Consent to judgment under section 74 of the Act.

Section 74.

78. In all cases of consent under section 74 of the Act, the defendant may confess the amount of the plaintiff's costs besides the Court fees, and the judgment may be entered accordingly, and the amount of such costs shall be stated separately.

Judgment summons under section 77.

Section 77.

79. A judgment summons under section 77 of the Act shall, if served in the home district, be returnable ten clear days after service, if in a foreign district within thirteen clear days after service. If served in the Brisbane district it shall be returnable five clear days after service.

80. When a defendant obtains leave to defend under section 92 of the Act, the action shall be set down for hearing at the first sittings of the Court to be held next after such leave to defend was obtained, unless the Judge shall otherwise order.

81. The defendant shall file with the Registrar all affidavits to be used by him on the hearing of a judgment summons, at least one clear day before the return day thereof.

Parties.

Section 93.

82. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist whether jointly, severally, or in the alternative, and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who shall not be found entitled to relief, unless the Judge in disposing of the costs of the action shall otherwise direct.

83. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, and judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

84. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally,

COURTS—

liable on any one contract, including parties to bills of exchange and promissory-notes.

85. Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and on application by any party to an action in such case the Judge may order a statement of the names of the persons who are co-partners in any such firm to be furnished in such manner, and verified on oath or otherwise, as the Judge may direct: Provided that where an action is brought against a firm and the plaintiff desires to obtain judgment against each member of the firm, he shall state the names of the persons whom he believes are co-partners in such firm, and file an affidavit and copy thereof setting forth the grounds of his belief, and the registrar shall thereupon attach to the summons a copy of such affidavit, together with a notice, according to the form in the schedule, that if sufficient cause be not shown at the trial the Judge will order judgment against all the persons whose names have been so given and verified; and the Judge may at the trial give judgment, if he thinks fit, against all the persons whose names have been inserted in such notice, and who shall have been served with the summons, with a copy of the affidavit, and notice annexed in the manner and within the time in which an ordinary summons should be served.

86. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of the firm.

Amendment of parties.

87. Where a person other than the defendant appears at the hearing and admits that he is the person whom the plaintiff intended to charge, his name may be substituted for that of the defendant, if the plaintiff consents; and thereupon the cause shall proceed as to set-off and other matters as if such person had been originally named in the summons, and the costs of the person originally named as defendant shall be in the discretion of the Judge.

88. Where a party sues or is sued in a representative character, but at the hearing it appears that he ought to have sued or been sued in his own right, the Judge may, at the instance of either party, and on such terms as he shall think fit, amend the proceedings accordingly, and thereupon the cause shall proceed as to set-off and other matters as if the proper description of the party had been given in the summons.

89. Where a party sues or is sued in his own right, but at the hearing it appears that he ought to have sued or been sued in a representative character, the Judge may, at the instance of either

party, and on such terms as he shall think fit, amend the proceedings accordingly, and thereupon the cause shall proceed as to set-off and other matters as if the proper description of the party had been given in the summons.

90. Where the name or description of a plaintiff in the summons is insufficient or incorrect, it may at the hearing be amended at the instance of either party, by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters as if the name or description had been originally such as it appears after the amendment has been made.

91. Where the name or description of a defendant in the summons is insufficient or incorrect, and the defendant appears and objects to the description, it may at the hearing be amended at the instance of either party, by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters as if the name or description had been originally such as it appears after the amendment has been made; but if no objection is taken to the name or description the cause may proceed, and in the judgment and all subsequent proceedings founded thereon the defendant may be named and described in the same manner.

92. In actions by or against a husband, if a wife be improperly joined or omitted as a party, the summons may at the hearing be amended at the instance of either party, by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters as if the proper person had been made party to the suit.

93. Where it appears at the hearing that a greater number of persons have been made plaintiffs than by law required, the names of the persons improperly joined may, at the instance of either party, be struck out, by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters as if the proper party or parties had alone been made plaintiffs.

94. Where it appears at the hearing that a less number of persons have been made plaintiffs than by law required, the name of the omitted person may, at the instance of either party (with his consent), be added by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters as if the proper persons had been originally made parties; and if such person shall, either at the hearing or at some adjournment thereof, personally or by writing signed by him or his agent, consent to become a plaintiff in manner aforesaid, the Judge shall then pronounce judgment as if such person had originally been made a plaintiff; but if

COURTS—

such person shall not consent to become a plaintiff in manner aforesaid, either at the hearing or at the adjournment thereof, judgment of nonsuit shall be entered.

95. Where it appears at a hearing that a greater number of persons have been made defendants than by law required, the name of the person improperly joined may, at the instance of either party, be struck out by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters as if the proper party or parties had alone been made defendants, and the costs of the person improperly joined as a defendant shall be in the discretion of the Judge.

96. Where two or more persons are made defendants, and some of them have not been served, the name or names of the defendant or defendants who have not been served may, at the instance of either party, be struck out by order of the Judge, on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off and other matters, as if the party or parties whose name or names have not been struck out, had alone been made defendant or defendants.

97. Where a sole plaintiff or defendant or one or more of several plaintiffs or defendants shall die before judgment, the action shall not abate if the cause of action survive or continue.

98. Where one or more of several plaintiffs or defendants shall die after judgment, proceedings thereon may be taken by the survivor or survivors, or against the survivor or survivors without leave of the Court.

99. Where a married woman is sued as a *femme sole*, and she obtains judgment on the ground of coverture, proceedings may be taken thereon in the name of the wife at the instance of the husband without leave of the Court.

Proceedings by and against executors and administrators.

Section 96.

100. In actions by executors or administrators, if the plaintiff fail the costs shall, unless the Court shall otherwise order, be awarded in favour of the defendant, and shall be levied *de bonis propriis*.

101. Where an executor or administrator, plaintiff or defendant, shall not appear on the day of hearing, the provisions of sections 109 and 110 of the Act shall apply respectively, subject to the Rules applicable to executors or administrators suing or sued.

102. A party suing an executor or administrator may charge in the summons that the defendant has had assets and has wasted them.

103. In all cases where the defendant is so charged in the summons, if the Court shall be of opinion that the defendant has wasted the assets, the judgment shall be that the debt or damage and costs shall be levied *de bonis testatoris, si &c., et si non, de bonis propriis*; and the non-payment of the amount of the demand, immediately on the Court finding such demand to be correct, and that the defendant is chargeable in respect of assets, shall be conclusive evidence of wasting to the amount with which he is so chargeable.

104. Where a defendant sued as an executor or administrator does not appear, or where the defendant appearing denies his representative character, or alleges a release to himself of the demand, whether he insists on any other ground of defence or not, if the judgment of the Court be in favour of the plaintiff, the judgment shall be that the amount found to be due and costs shall be levied *de bonis testatoris, si &c., et si non, de bonis propriis*.

105. Where a defendant sued as an executor or administrator admits his representative character, and only denies the demand, if the plaintiff prove it, the judgment shall be that the demand and costs shall be levied *de bonis testatoris, si &c., et si non*, as to the costs, *de bonis propriis*.

106. Where such defendant admits his representative character, but denies the demand and alleges a total or partial administration of assets, and the plaintiff proves his demand, and the defendant proves the administration alleged, the judgment shall be to levy the costs of proving the demand *de bonis testatoris, si &c., et si non, de bonis propriis*; and as to the whole or residue of the demand, judgment of assets *quando acciderint*; and the plaintiff shall pay the defendant's cost of proving the administration of assets.

107. Where such defendant admits his representative character, but denies the demand and alleges a total or partial administration of assets, and the plaintiff proves his demand, but the defendant does not prove the administration alleged, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs *de bonis testatoris, si &c., et si non*, as to the costs *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*.

108. Where such defendant admits his representative character and the plaintiff's demands, but alleges a total or partial adminis-

tration of the assets, and proves the administration alleged, the judgment shall be for assets *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets.

109. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of the assets, but does not prove the administration alleged, and has not established any other ground of defence, the judgment shall be to levy the amount of the demand, if so much assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs *de bonis testatoris, si &c., et si non*, as to the costs *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*.

110. Where judgment has been given against an executor or administrator, that the amount be levied upon assets of the deceased *quando acciderint*, the plaintiff, or his personal representative, may issue a summons; and if it shall appear that assets have come to the hands of the executor or administrator since the judgment, the Court may order that the debt, damages, and costs be levied *de bonis testatoris, si &c., et si non*, and as to the costs *de bonis propriis*: Provided that it shall be competent for the party applying to charge in the summons that the executor or administrator has wasted the assets of the testator or intestate in the same manner as in Rule 101, and the provision of Rule 102 shall apply to such inquiry, and the Court may, if it appear that the party charged has wasted the assets, direct a levy to be made as to the debt and costs *de bonis testatoris, si &c., et si non, de bonis propriis*.

111. Where a defendant admits his representative character and the plaintiff's demand, and that he is chargeable with any sum in respect of assets, he shall pay such sum into Court, subject to the rules relating to payment into Court in other cases.

112. In actions against executors or administrators, for which provision is not hereinbefore specially made, if the defendant fail as to any of his defences, the judgment shall be for the plaintiff as to his costs of disproving such defence, and such costs shall be levied *de bonis testatoris, si &c., et si non, de bonis propriis*.

Evidence.

Section 102.

113. Subpœnas to witnesses may be issued without leave of the Judge to be served either in the home or in any foreign district.

114. It shall be sufficient if a subpœna to a witness be served within a reasonable time before the return-day thereof.

115. If any witness who has been summoned to attend shall, before he is sworn, request the Judge to fix the amount⁽¹⁰⁾ to be paid to him as a witness, the Judge may do so, and may decline to compel the witness to give his evidence until the amount so fixed shall have been paid to him or security given to the satisfaction of the Judge.

116. When a party desires to give in evidence any document, he may, within a reasonable time before hearing, give notice in writing to any other party in the action who is competent to make admissions, requiring him to admit such document; and if such demand be not complied with, any expense of proving the said document shall be paid by the other party, whatever be the result of the action, unless the Judge shall otherwise order; and no costs of proving any document shall be allowed unless such notice be given, except where, in the opinion of the Registrar, the omission to give such notice has been a saving of expense.

117. Where in any action any party is desirous of inspecting any written or printed document or instrument which he is entitled to inspect, relating to the matter in question in such action, and which shall be in the possession or power or under the control of the other party, such first-mentioned party may, five clear days before the day of hearing, give notice to the other party, by post or otherwise, that he or his solicitor desires to inspect any such document or instrument, describing the same, at any place to be appointed by the other party; and if such other party shall neglect or refuse to appoint such place, or to allow such plaintiff or defendant or his solicitor to inspect such document or instrument within three clear days after receiving such notice, the Judge may, in his discretion, on the day of trial, adjourn the action and make such order as to costs as he shall think fit.

118. Where any documents are produced to the Court from proper custody, they shall be read without further proof, if they appear genuine, and if no objection be taken thereto; and if the admission of any document so produced be objected to, the Judge may adjourn the hearing for the proof of the documents, and the party objecting shall pay the costs caused by such objection, in case the documents shall afterwards be proved, unless the Judge shall otherwise order.

Trial.

Section 106.

119. The parties to any cause, at any time before, or at the time when, the cause is called on, may by consent postpone the hearing to such subsequent Court as the Judge shall direct.

(10) As to payment of witnesses' fees, see, however, Rules 59 and 60 of the *Rules of Civil Procedure*, printed on p. 608.

120. Where a cause is adjourned, no order of adjournment shall be served on either party, unless by direction of the Judge.

121. When anything required by the practice of the Court to be done by either party before or during the hearing, has not been done, the Judge may in his discretion, and on such terms as he shall think fit, adjourn the hearing to enable the party to comply with the practice.

122. If at the return day of a summons, or at any adjournment of the Court at which it is returnable, the plaintiff does not appear, and the defendant does appear and does not admit the plaintiff's demand, the Judge may in his discretion award to the defendant costs in the same manner and to the same amount as to barrister, attorney, witnesses, and other matters, as if the cause had been tried.

123. No attorney shall be allowed to appear for any person in a District Court until he has been admitted⁽¹¹⁾ to practice in the Supreme Court of Queensland.

124. Where an infant defendant appears at the hearing, and names a person willing to act as guardian, who then assents so to act, such person shall be appointed guardian accordingly; but, if the defendant do not name a guardian, the Judge may appoint any person in Court willing to become guardian, or, in default of such person, the Judge shall appoint the Registrar of the Court to be guardian, and the cause shall proceed thereupon as if another person had been appointed guardian; and the name of the guardian appointed shall be entered in the form in the Schedule; and no responsibility shall attach to the Registrar when so appointed guardian at the instance of the Court.

125. When the Court gives leave to take any proceeding it shall not be necessary to draw up any order unless the Judge otherwise directs.

126. Upon a defended cause being called on for hearing the defendant shall, if required, state the grounds of his defence.

Trial by jury.⁽¹²⁾

Section 113.

127. Notice of demand of a jury shall be made in writing to the Registrar of the Court in the Brisbane District five clear days, elsewhere eight clear days, before the day of hearing.

(11) As to the admission of Barristers and Solicitors of the Supreme Court of Papua, see the *Rules of the Central Court for Regulating the Admission of Barristers and Solicitors and their Fees*, printed on p. 629, and Rule 5 of the *Rules of the Central Court for Regulating Civil Procedure and the Admission of Barristers and Solicitors*, printed on p. 669.

(12) See footnote (10) to *The District Courts Act, 1891* (Queensland, adopted), printed on p. 676.

Affidavits.

Section 119.

128. Every affidavit shall be intituled in the action or matter in which it is sworn, but in every action in which there are more plaintiffs than one it shall be sufficient to state the full name of the first plaintiff and defendant respectively with the addition of the words "and another" or "and others" as may be. Every affidavit sworn in an action shall bear the year and number of the action.

129. Every affidavit shall be drawn up in the first person and divided into paragraphs numbered consecutively, and every paragraph shall be confined as nearly as may be to a distinct portion of the subject.

130. Every affidavit shall state the description and true place of abode of the deponent.

131. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory applications, on which statements as to his belief with the grounds thereof may be admitted.

132. All affidavits shall state distinctly what facts or circumstances deposed to are within deponent's own knowledge, and his means of knowledge, and what facts or circumstances deposed to are known to or believed by him by reason of information derived from other sources than his own knowledge, and what such sources are.

133. In every affidavit made by two or more deponents, the names of the several persons making the affidavit shall be inserted in the jurat, but if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both or all of the "abovenamed" deponents.

134. Every affidavit shall be stamped with a proper fee stamp, and shall, except by leave of a Judge or where the Act or Rules otherwise provide, be filed in the Registrar's office before whom it is used.

135. There shall be appended to every affidavit a note showing on whose behalf it is filed.

136. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read by him or in his presence to the deponent, that the deponent seemed perfectly to

COURTS—

understand it, and that the deponent made his or her mark or signature in the presence of the officer. No such affidavit shall be used in evidence in the absence of such certificate unless a Judge is otherwise satisfied that the affidavit was read over to and apparently understood by the deponent.

137. The Court or a Judge may allow any affidavit to be used notwithstanding any defect, by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on such affidavit that it has been so received.

138. No affidavit is to be deemed sufficient which has been sworn before the party on whose behalf the same is offered, or before his solicitor or before a clerk or partner of his solicitor.

139. No affidavit having any interlineation, alteration, or erasure in the jurat or body thereto shall, without leave of a Judge, be used, unless the interlineation or alteration, other than by erasure is authenticated by the initials of the person taking the affidavit, nor in the case of erasure unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are rewritten and signed or initialled in the margin of the affidavit by each person.

140. A party intending to use an affidavit not previously used shall serve a copy thereof within a reasonable time on every party against whom it is intended to be used, otherwise the same shall not be read or used without the leave of a Judge.

141. Every document referred to as an exhibit in an affidavit shall be attached to the affidavit and referred to therein as attached, and marked with a distinguishing letter or number, and shall be identified by the officer before whom it is sworn. And every certificate on an exhibit referred to in an affidavit signed by the officer before whom the affidavit is sworn, shall be marked with the short title of the action or with the title of the matter or an abbreviation thereof sufficient for identification.

142. When a copy of any document is attached to an affidavit and a question may arise as to the accuracy of the copy or the existence or authenticity of the original, the party on whose behalf the affidavit is made may at any time when the affidavit is tendered in evidence, produce the original for the purpose of being compared with the copy, or otherwise inspected by the Court or Judge or the parties.

Costs.

Section 120.

143. The Judge shall in each case direct what number of witnesses are to be allowed on taxation of costs, between party and party, and their allowance for attendance shall in no case exceed the rate of the allowances mentioned in the scale⁽¹³⁾ in the Schedule.

144. The costs of witnesses, whether they have been examined or not, may, in the discretion of the Judge, be allowed, though they have not been subpoenaed.

145. Money paid into Court on a judgment shall be appropriated, first in satisfaction of the costs, and afterwards in satisfaction of the original demand.

146. Costs of warrants of execution, whether executed or unexecuted, or unproductive, shall be allowed against the defendant, unless the Judge shall otherwise direct.

147. Costs of warrants of commitment and writs of *capias ad satisfaciendum*, whether executed or unexecuted, shall be allowed against the defendant, unless the Judge shall otherwise direct.

148. No possession fee shall be payable where an execution is paid out at the time of the levy; but if the officer shall necessarily remain in possession more than one hour and the execution shall be paid out on the day of levy the possession fee for that day shall be charged.

149. In all cases in which an attorney or legal practitioner shall have been employed by either party, and such party shall recover costs of suit, the amount whereof has not been determined by the Judge at the hearing, the attorney of the party entitled to such costs shall, at any time before or within twelve calendar months after the date of judgment, file his bill of costs with the Registrar, who shall thereupon give an appointment for the taxation thereof, a copy of which appointment and costs shall be served on the opposite party within a reasonable time before the time appointed for such taxation, and if either party obtaining the appointment fail to appear, the Registrar may tax *ex parte*: Provided that in undefended cases, the service on the defendant of such appointment and costs may be made by posting the same to the defendant's last known place of abode or address: Provided also, that the time for filing a bill of costs may be extended by the Registrar.

(13) As to the Scale of Allowances to Witnesses, see the Schedule to the Rules of Civil Procedure, printed on p. 625.

COURTS—

Remitted actions.

Section 129.

150. Where any action is remitted by order of the Supreme Court to a District Court, the plaintiff shall lodge with the Registrar thereof, if no statement of claim has been delivered, a concise statement of the particulars, such as would be required upon entering a plaint, signed by the plaintiff or his solicitor; and shall at the same time deliver to the Registrar as many copies of such statement of particulars as there are defendants.

151. If no statement of defence has been delivered the defendant shall give his notice of defence as prescribed by these Rules, and the day fixed by the Judge for the hearing of the action shall be considered the return day for the purpose of giving such notice.

152. The Registrar of the District Court shall give the parties such notice of the day appointed for hearing as the Judge shall direct; and, where a statement of the particulars of the plaintiff's demand has been lodged, shall, with the notice, send to each defendant a copy thereof, sealed with the seal of the Court.

153. Actions remitted from the Supreme Court to a District Court may be set down for hearing by the Judge of the District Court to which they have been remitted (if no jury be required by either party) on other dates (subject to these Rules) than those proclaimed for holding sittings of such District Court.

Judgment.

Section 132.

154. The judgment in detinue, if for the plaintiff, shall be for the value of the goods detained, together with a sum to be stated in the judgment by way of damages for the detention and costs; but it may be made part of the order that on payment of damages for the detention and costs, and return of the goods on or before a day to be named, satisfaction shall be entered.

155. Where an order is made for the payment of any sum of money by instalments, such instalments shall be payable at such periods as the Judge shall order; and if no period be mentioned, the first shall become due on the twenty-eighth day from that of making the order; and every successive instalment shall become due at a like period of twenty-eight days from the day of the previous instalment becoming due.

156. Where any Judge shall reserve his decision on any question of fact or law arising in any action or other proceeding brought in a District Court, he may give the same at any continuation or adjournment of such Court, or at any subsequent sitting thereof, or he may draw up such decision in writing, and having signed the same, forward it to the Registrar of the Court. Upon the receipt of such decision, the Registrar shall notify the parties or their solicitors of his intention at some convenient time specified by him to read the same in the Court-house at which such Court is held, or other convenient place, and he shall read the same accordingly, if either or both parties his or their solicitor or solicitors shall be present; but if the parties or either of them shall not be present at such reading, the Registrar shall forward a copy of such judgment to the absent party or parties, and such decision shall be of the same force and effect as if given by such Judge at the trial or hearing of such action or other proceeding.

Proceedings in the nature of a scire facias.

157. Execution on a judgment shall not issue by or against any person not a party to a suit, without a plaint or summons upon the judgment, the proceedings in which shall be the same as in ordinary cases.

158. Where a judgment has been given for or against a person deceased, his executors or administrators may in the same manner sue or be sued upon the judgment.

New trial.

159. An application for a new trial, or to set aside proceedings, may be made and determined on the day of hearing, or any subsequent day of the same sittings, if both parties be present, or such application may be made at the first Court holden next after the expiration of ten clear days from such day of hearing, provided the intending applicant do, seven clear days before the holding of such Court, deliver to the Registrar at his office, and also give to the opposite party by serving the same personally on such party, or by leaving the same at his place of abode or place of business, a notice in writing, signed by himself or his solicitor, stating that such an application is intended to be made at such Court, and setting forth shortly the grounds of such intended application; but such notice shall not operate as a stay of proceedings unless the Judge shall otherwise order; and if any money paid into Court under any execution or order in the action shall not have been paid out, when such notice in writing shall be given to the Registrar, the Registrar shall retain the same to abide the event of such application, or until the Judge shall otherwise order; and if no such application be made, the money shall, if required, be paid over to the party in whose favour the order was made, unless the

COURTS—

Judge shall otherwise order; and if such notice be not given in manner aforesaid, or such application be not made at the Court mentioned in the notice, no application for a new trial or to set aside proceedings shall be subsequently made, unless by leave of the Judge, and on such terms as he shall think fit.

160. The Judge may, in his discretion, make it a condition of granting a new trial, that it shall take place before a jury, in all cases where the former trial might have been had before a jury.

Arbitration.⁽¹⁴⁾

Section 134.

161. The order to refer under section 134 may be made before, upon, or after the return day.

162. The party applying to set aside an award shall give the other party seven clear days' notice of his application.

163. Such application shall be supported by an affidavit, setting out the facts upon which the application is based, and a copy thereof shall be served upon the opposite party with the notice.

Appeal.⁽¹⁵⁾

Section 144.

164. Every notice of appeal shall be given within twelve clear days of the day on which the verdict is given, and the security or deposit directed by section 144 of "*The District Courts Act, 1891*," shall be given or made within the like time. In the Brisbane District the time for taking the steps herein referred to shall be within six clear days from the day on which the verdict is given.

165. The notice of appeal shall be in writing, and shall state the grounds on which the party appeals, and shall be signed by the appellant, his barrister, attorney, legal practitioner, or agent; and such notice shall be sent to the Registrar as well as to the successful party, by post or otherwise.

166. When the Court of Appeal has pronounced judgment either party may deposit the original order of the Court of Appeal, or an office copy thereof, with the Registrar of the District Court, and within forty-eight hours from the time of such deposit send a notice thereof to the other party, by post or otherwise.

(14) See, also, the *Arbitration Ordinance, 1912*.

(15) See, also, *The Appeal Ordinance of 1909*.

167. A new trial, if ordered by the Court of Appeal, shall be set down for hearing on such date as the Judge of the District Court shall appoint, and due notice thereof shall be given by the Registrar to the parties.

168. If the order of the Court of Appeal be that judgment shall be entered for either party, then such judgment shall be entered accordingly, and the successful party shall be at liberty to proceed on such judgment as on a judgment of the District Court.

Warrants of execution.

Section 161.

169. All warrants of execution shall bear date on the day on which they are issued, and shall continue in force for twelve calendar months from such date and no longer.

170. Where a defendant has made default in payment of the whole amount awarded by the judgment, or of an instalment thereof, a warrant of execution, without leave of the Court, may issue; and such execution shall be for the whole amount of the judgment and costs then remaining unsatisfied, unless, in the case of instalments, the Judge shall otherwise direct at the time of giving judgment.

171. The Registrar shall, on issuing a warrant of execution, endorse thereon the amount to be levied, distinguishing the amount adjudged to be paid, and the amount of the fee for issuing the warrant; and shall prepare and deliver to the bailiff with the warrant a notice in the form contained in the Schedule; and the bailiff upon levying shall deliver such notice to the party against whom the execution has issued, or leave the same at the place where the execution is levied.

172. All goods sold in execution of the process of the Court shall be sold publicly, and for ready money, by the bailiff or his deputy, to the highest bidder, at or as near the place where the same were levied upon as may be convenient for the sale thereof; and the said bailiff or deputy shall affix notice of the said sale upon or near the door of the house or the place where the sale is made, four days at least before the day appointed for the said sale, which day shall not be earlier than the sixth day from the day of levying upon the goods.

173. When any goods are levied upon in any place not situated in or part of any town the bailiff shall, if required by the owner, and on payment of the expense of removal by such owner, remove the goods so levied upon to the next town for sale; and in all cases of any such sale not being conducted in a town, the bailiff shall post a

COURTS—

written notice of such intended sale at the Court-house, or some convenient public place, four days previous to such sale taking place.

174. Warrants of execution may be issued concurrently into one or more districts, by leave of the Judge, or in his absence by leave of the Registrar, provided that the costs of more than one warrant shall not be allowed against the execution debtor, unless by order of the Judge.

Execution against land.

Section 163.

175. Notices under section 163 shall be published twice in two newspapers, published and circulating nearest the land in question, not less than two weeks, nor more than four weeks, before the day of sale, unless a Judge otherwise orders.

Suspension of execution.

Section 177.

176. Seven days' notice of an application under section 177 by a defendant, not being a prisoner, shall be given to the plaintiff.

Interpleader.⁽¹⁶⁾

Section 180.

177. Where any claim is made to, or in respect of, any goods or chattels taken in execution under the process of any District Court, or in respect of the proceeds or value thereof, by any landlord for rent, or by any person not being the party against whom such process has issued, and summonses have been issued on the application of the bailiff, such summonses shall be served in such time and mode as hereinbefore directed for a summons to appear to a plaintiff, and the case shall proceed as if the claimant were the plaintiff, and the execution creditor the defendant; and the claimant shall, five clear days before the day on which the summonses are returnable, deliver to the bailiff, or leave at the office of the Registrar of the Court, particulars of any goods or chattels alleged to be the property of the claimant, and the grounds of his claim, or in case of a claim for rent, of the amount thereof, and for what period, and in respect of what premises the same is claimed to be due, and the name, address, and description of the claimant shall be fully set forth in such particular; and any money paid into the Court under the execution shall be retained by

(16) As to interpleader, see, also, the *Interdict Act of 1867* (Queensland, adopted), printed on p. 585.

the Registrar until the claim shall have been adjudicated upon; provided that by consent an interpleader claim may be tried, although this Rule has not been complied with.

178. Interpleader summonses shall be issued by the Registrar on the application of the bailiff, without leave of the Court, and without fee.

179. Interpleader summonses shall be issued from the Court of the district in which the levy was made, and the execution creditor and claimant shall be summoned to such Court.

180. Where the claim to any goods or chattels taken in execution, or the proceeds or value thereof, shall be decided against the claimant, the costs of the bailiff allowed by the Judge shall be retained by him out of the amount levied, if the Judge shall so order, but without prejudice to the right of the execution creditor for the sum so retained.

181. Where any claim shall have been made, and shall be now existing, or where any claim shall be made under section 180 of "*The District Courts Act, 1891*," to or in respect of any goods taken in execution under the process of a District Court, the claimant may deposit with the bailiff either the amount of the value of the goods claimed (such value to be fixed by appraisalment in case of dispute), to be by such bailiff paid into Court, to abide the decision of the Judge upon such claim; or the claimant may deposit in Court the sum which the bailiff shall be allowed to charge as costs, for keeping possession of such goods, until such decision can be obtained; and in default of the claimant so doing, the bailiff shall sell such goods as if no such claim had been made, and shall pay into Court the proceeds of such sale, to abide the decision of the Judge.

Attachment of debts.⁽¹⁷⁾

Sections 181 to 190.

182. The summons to the garnishee, directed by section 182 of the Act, shall be served not less than seven clear days before the return day, except in the Brisbane District, where it shall be served not less than three clear days before the return day.

183. The times respectively mentioned in the last rule shall also apply to the service of a summons on a "third person" under section 186, and on "any other person" under section 187 of the Act.

(17) See, also, the *Creditors Remedies Ordinance, 1921*.

COURTS—

Proceedings at Chambers.

184. All applications in reference to proceedings in Chambers must be made to the Registrar of the Court, which may have cognizance of the matter.

185. All affidavits and papers upon which it is intended to move must first be filed with the Registrar, and by him placed before the Judge.

186. Every summons returnable at Chambers shall set out in plain and distinct terms the nature of the application to be made, and shall be signed and sealed by the Registrar of the Court in which the action or matter is pending.

187. The grounds of the application shall be stated either upon the face of the summons, or in an affidavit which shall be filed before the issue of the summons.

188. Copies of affidavits intended to be used upon the hearing of any summons before a Judge, must be served upon the opposite party before being used, and in sufficient time to enable the party served to answer, on affidavit, any statement which he intends to contest.

Security.

189. In all cases where a party proposes to give a bond by way of security, he shall serve, by post or otherwise, on the opposite party and the Registrar, at his office, notice of the names and residences of the proposed sureties, in the form set forth in the Schedule; and the Registrar shall forthwith give notice to both parties of the day and hour on which he proposes that the bond shall be executed, and shall state in the notice to the obligee, that should he have any valid objection to make to the sureties, or either of them, it must then be made.

190. The sureties shall make an affidavit of their sufficiency before the Registrar, in the form in the Schedule, unless the opposite party shall dispense with such affidavits.

191. The bond shall be executed in the presence of the Registrar, or some other person before whom oaths may be taken: Provided that if it be executed in the presence of the Registrar, it shall not be necessary for it to be attested.

192. Where a party makes a deposit of money in lieu of giving a bond, he shall forthwith give notice to the opposite party, by post or otherwise, of such deposit having been made.

193. In all cases where the security is by bond, the bond shall be deposited with the Registrar until the cause be finally disposed of.

Notices.

194. Where by these Rules any party is required to give notice according to a form mentioned in the Schedule, it shall be sufficient if the notice given complies substantially with such form.

195. In all cases where any notice or thing is required by these Rules to be given or done within a period of twenty-four hours, or within a period of forty-eight hours, no part of Sunday, Christmas Day, or Good Friday, or of any day appointed by proclamation for a public fast, humiliation, or thanksgiving, shall be included in the computation of such period.

196. All notices required by these Rules may be given to the attorney, solicitor, barrister, or legal practitioner, in lieu of the party.

Stamps.

197. All fees of court authorised to be collected or received in the offices of the registrars of the District Court, as regulated by any Act of Parliament, rule of court, general order, or in any schedule or schedules thereto, or otherwise in that behalf (except bailiff's fees), shall be collected by the said registrars and their officers, not in money, but by means of stamps, denoting the amount of such fees. And the stamps for denoting the amount of such fees shall be of the respective amounts set forth in the several Acts of Parliament, rules of court, general orders, or schedules thereto now in force relating to or regulating such fees; and in such other Acts, rules of court, and general orders as may, from time to time, be respectively passed, enacted, or made in that behalf.

198. Such stamps shall be stamped or affixed at the expense of the parties liable to pay the fees, on or to the vellum, parchment, or paper on which the proceedings in respect whereof such fees are payable are written or printed, or which may be used in reference to such proceedings; and where any such fees are payable in respect of any matter or thing to be done by any officer of the said Court, or in any office of the said Court, and it has not been customary or necessary to use, in reference to such matter or thing, any written or printed document or paper whereon the stamp could be stamped or affixed, the party or his solicitor requiring such matter or thing to be done shall make application for the same by a short memorandum or note in writing, to be signed by such party or his solicitor in a book to be kept for that purpose in the offices of the said registrars; and

COURTS—

a stamp denoting the amount of the fee so payable shall be affixed to such note or memorandum in such book.

199. Where stamps impressed or printed upon adhesive paper are used, the stamp affixed to the document, note, or memorandum shall be of an amount corresponding as nearly as is practicable with the amount of the stamp which such document requires, in order that no greater number of adhesive stamps may be affixed to any document, note, or memorandum than is actually necessary.

Proceedings under section 21 of "The Married Women's Property Act, 1890."⁽¹⁸⁾

200. When application is made under section 21 of "*The Married Women's Property Act, 1890*,"⁽¹⁸⁾ particulars of the question to be submitted to the Judge shall be filed, and thereupon a summons shall be issued with the particulars annexed thereto, and shall be served upon the opposite party, and the same fee shall be taken as upon the entry of a plaint. Any application under this Rule may be made to the Court or a Judge in Chambers.

Proceedings under "The Friendly Societies Act 1876."⁽¹⁹⁾

201. Every dispute referred to the Court under "*The Friendly Societies Act 1876*"⁽¹⁹⁾ shall be referred by plaint and summons in the ordinary way.

202. In proceedings commenced pursuant to the last preceding Rule, the claiming or aggrieved member, or other person, shall be plaintiff, and the society, either in its own name, or in the name of such persons as are authorised by law to be sued on behalf of the society, shall be defendants.

203. Particulars of demand shall be filed in all cases of disputes under the said Act, and shall state concisely the nature of the dispute referred, and the relief or order claimed.

FORMS.

1.—*General heading and conclusion.*

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

Dated this

day of

18

(18) *The Married Women's Property Act, 1890*, of Queensland has not been expressly adopted as a law of the Territory by any Ordinance of the Territory of Papua. See, however, the *Married Women's Property Ordinance, 1912*.

(19) *The Friendly Societies Act 1876* of Queensland has not been expressly adopted as a law of the Territory by any Ordinance of the Territory of Papua.

The District Court Rules, 1891 (Queensland, adopted).

2.—*Memo. to be placed at foot of every summons, notice, judgment, order, warrant, or any other process of the Court.*

Hours of attendance at the office of the Registrar [*place of office*] from
till
except on Saturdays, when the office
will be closed at noon.

3.—*Agreement to give jurisdiction to a District Court under section 61.*

Section 61.

We [*the respective attorneys of*] A.B. of _____ and C.D. of _____
do hereby consent that the District Court of Queensland,
held at _____ shall have power to try an action brought by A.B.
against C.D. for _____

We know that this action is not within the jurisdiction of the said District Court without such consent.

Given under our hands this _____ day of _____ 18 ____
A.B. (*or* E.F., attorney for A.B.)
C.D. (*or* G.H., attorney for C.D.)

4.—*Plaint.*

In the District Court of Queensland
Held at _____

No. _____

Between A.B.,
[*address*]
[*description*]
plaintiff,
and
C.D.,
[*address*]
[*description*]
defendant.

The abovenamed plaintiff sues the abovenamed defendant for money payable by the defendant to the plaintiff for [*here state the substance of the action intended to be brought*], and the plaintiff claims £ _____

Dated this _____ day of _____ 18 ____
Plaintiff.

To the defendant.

5.—*Plaint-note on entering plaint (ordinary summons).*

In the District Court of Queensland
Held at _____

No. [*of Plaint*]. _____

Between A.B., plaintiff,
and
C.D., defendant.
Fees paid.
£ s. d.

The above cause was entered this day, and will be tried at _____
on _____ the _____ day of _____ at _____
o'clock in the _____ noon.

Dated this _____ day of _____ 18 ____
Registrar of the Court.

The District Court Rules, 1891 (Queensland, adopted).

You are hereby summoned to appear at the District Court, to be holden at
 on the _____ day of _____ at
 the hour of _____ in the forenoon, to answer the plaintiff to a
 claim, the particulars of which are herennto annexed.

Dated this _____ day of _____ 18 .

Registrar of the Court.

		£	s.	d.
Debt or claim			
Costs of plaint			
Attorney's costst			
Service and mileage			
Total amount	£		

To the defendant.

N.B.—If you owe the money, you may consent to a judgment.

(See back.)

[To be endorsed on the summons.]

If you confess the plaintiff's claim, you should sign and deliver your confession to the Registrar of the Court _____ clear days before the day of hearing; but you may deliver your confession at any time before the cause is called on, subject to the payment of any further costs which your delay may have caused the plaintiff to incur.

You and the plaintiff may agree as to the amount due, and the mode of payment, and may, before the cause is called on for trial, sign a memorandum of such agreement at the Registrar's office, or before an attorney.

If you pay the debt and costs, as stated in the summons, _____ clear days before the hearing, you will avoid further costs; but you may pay the same at any time before the cause is called on for trial, subject to the payment of any further costs which your delay may have caused the plaintiff to incur.

If you admit a part only of the claim, you may, by paying into the Registrar's office the amount so admitted, together with costs proportionate to the amount you pay in, _____ clear days before the day of hearing, avoid further costs, unless the plaintiff at the hearing shall prove a claim against you exceeding the sum so paid.

If you intend to defend this action, you must give to the Registrar a written notice of defence _____ clear days before the return day of this summons.

If you intend to rely on a set-off, infancy, the Statute of Frauds, coverture, any statute of limitations, or discharge under any Act for relief of insolvent debtors, or a plea of justification in any action of tort as a defence, or a defence on equitable grounds, you must plead such special defence, and lodge such plea with the Registrar _____ clear days before the day of hearing, and with such plea a statement in writing of the particulars required by the rules of the Court. You must deliver to the Registrar as many copies of such notice, plea, and statement as there are plaintiffs, and an additional copy for the use of the Court. If your defence be a tender, you must pay into Court before or at the hearing the amount tendered.

If the debt or claim exceed twenty pounds, you may have the cause tried by a jury, on giving notice in writing at the Registrar's office _____ clear days before the hearing, and on payment of two pounds. Subpœnas for witnesses, and for the production of documents, will be issued upon application at the office of the Registrar of the Court.

COURTS—

N.B.—Where a plaintiff proposes to charge in the summons that the defendant has had assets and has wasted them, commence with the above form of summons, but naming defendant as executor or administrator of the deceased, and adding—

“And the plaintiff alleges that you, the defendant, have money, goods, and chattels, which were the property of deceased, at the time of his death, and which came to your hands as executor [or administrator] of the said deceased, to be administered; and if you have not, that you have withheld and wasted the same, whereby you have become liable to satisfy the plaintiff's claim and his costs herein out of your own goods.”

* Insert this when necessary.

† Insert this when the amount claimed exceeds £10, and an attorney has signed the particulars of plaintiff's demand.

8.—*Plaint-note on entering plaint (special summons).*

Section 64.

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

Fees paid.
£ s. d.

The above action was entered this
18 , under section 64 of the Act.

day of

(Signed)

Registrar of the Court.

N.B.—You will be entitled to judgment at the expiration of clear days from the date of the service of the summons, unless the defendant gives notice of his intention to defend this action. Should such notice be given you will be informed thereof on inquiry at the office.

Bring this note when you come to the Court or to the office for any purpose connected with this cause.

Money will be paid out of Court only on production of this note, and upon you or your agent's personal attendance, as the book must be signed by you or your agent.

9.—*Special summons.*

Section 64.

In the District Court of Queensland
Held at

No. [of *Plaint*].

Between A.B., plaintiff
[address]
[description]
and
C.D., defendant
[address]
[description].

Take notice that unless within clear days after service upon you of this summons, you give the Registrar written notice of your in-

The District Court Rules, 1891 (Queensland, adopted).

tention to defend this action, you will not afterwards be allowed to make any defence to the claim which the plaintiff makes upon you and which is endorsed hereon, but the plaintiff may proceed to judgment and execution.

Dated this _____ day of _____ 18 .
(Signed) _____ Registrar of the Court.

To the defendant.

The plaintiff's solicitor is Mr. _____ carrying on business at _____

[*Endorsement on special summons.*]

The plaintiff's claim is [*here state claim*]

	£	s.	d.
Claim			
Costs of plaint			
Attorney's costs			
Service and mileage*			
Total	£		

If you pay the above amount into the Registrar's office within _____ clear days after service upon you of the within summons you will avoid further costs.

If you admit any part of the claim, you may pay that part into Court within _____ clear days after service upon you of the within summons, together with such costs as the Registrar may direct, and thereby avoid further costs, unless the plaintiff prove a claim against you exceeding the sum so paid.

If you give notice of your intention to defend, a summons may be issued requiring you to show cause before a Judge why the plaintiff should not be at liberty to sign final judgment forthwith, for the amount claimed together with interest (if any) and £ _____ for costs and mileage. In default of such summons being issued you will have notice of the day fixed for the trial.

[*Here add endorsement of service either by bailiff, section 66, or by other person, section 65.*] See Forms 10 and 11.

* To be fixed by Registrar.

10.—*Statement of service by person other than bailiff to be endorsed on summons or other process.*

Section 65.

I, A.B. of _____ served the within summons (or other document) on the within-named defendant by [*mode of service*] at _____ on the _____ day of _____ 18 .

Endorsed this _____ day of _____ 18 .
(Signed) _____ A.B.

11.—*Deposition of service by bailiff to be endorsed on or attached to summons.*

Section 66.

I, A.B., bailiff of the District Court of Queensland, held at _____ make oath and say that I served a true copy of the within summons on the

COURTS—

within-named defendant by [*mode of service*] at _____ on the
day of _____ 18 .
Sworn at _____ in the Colony of Queensland, this
day of _____ 18 before me
(Signed) _____ C.D., J.P.

12.—*Letter to be sent with summons out of district.*

In the District Court of Queensland _____ No. [of *Plaint*].
Held at _____
Between A.B., plaintiff,
and
C.D., defendant.

Sir,—I hereby request that you will serve the accompanying summons and
plaint immediately upon the defendant, who is stated to reside at _____
and return the enclosed copy of the same to me, with the affidavit of service
required by Rule 23. I enclose stamps to the value of _____, in payment
of mileage, service fee, and return postage.

Your obedient servant,
Registrar of the Court.

To the bailiff of the District Court
of _____ holden at _____

13.—*Notice of Service of Summons.*

In the District Court of Queensland _____ No. [of *Plaint*].
Held at _____
Between A.B., plaintiff,
and
C.D., defendant.

Take notice that the summons in this action was served on the defendant
[*mode of service*] on the _____ day of _____ 18 .

Dated this _____ day of _____ 18 .

To the plaintiff.

Bailiff.

14.—*Notice of non-service of a summons.*

In the District Court of Queensland _____ No. [of *Plaint*].
Held at _____
Between A.B., plaintiff,
and
C.D., defendant.

Take notice that the summons in this action has not been served for the
following reason [*state reason*].

Dated this _____ day of _____ 18 .

To the plaintiff.

E.F. Bailiff.

The District Court Rules, 1891 (Queensland, adopted).

&c., over and above all other sums for which I am now security as aforesaid] consists of [here specify the nature and value of the property in respect of which the deponent proposes to become bondsman, as follows:—

Stock-in-trade in my business of _____ carried on by me at _____
of the value of £ _____ of good book debts owing
to me to the amount of £ _____ of furniture in my house at _____
of the value of £ _____ of a freehold [or
leasehold] farm of the value of £ _____ situate at _____
occupied by _____ or, of a dwelling-house of the value of _____
situate at _____ occupied by _____ [or of other property,
particularising each description of property, with the value thereof] and that I
have for the last six months resided at [describing the place of such residence, or
if he has had more than one residence during that period, state it in the same
manner as above directed].

Sworn at, &c.

20.—Notice of payment into Court by defendant to plaintiff.

Section 72.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

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

To the plaintiff.

Take notice that I have this day paid into Court the sum of £ _____ for your
as full satisfaction for your demand together with £ _____ costs up to the time of payment.

Dated this _____ day of _____ 18 _____
(Signed) C.D., defendant.

21.—Admission of claim or part of claim under section 73 of the Act.

Section 73.

(A.)

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

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

I, the defendant, do hereby confess and admit that the sum of £ _____
the amount claimed [or the sum of £ _____], being part of the amount
claimed by the plaintiff in this action] is due to him from me.

Dated this _____ day of _____ 18 _____
Defendant.

Signed in the presence of _____

This paper marked (A) is the statement referred to in the annexed affidavit.

COURTS—

2. The abovenamed defendant was at the commencement of this action and still is justly and truly indebted to me in the sum of pounds shillings and pence.

3. Particulars of the debt are hereunto annexed marked with the letter A.

Signed and sworn by the deponent at _____ in the Colony of
Queensland, this _____ day of _____ 18 .

Before me

A Justice of the Peace.

This affidavit is filed on behalf of the plaintiff.

28.—*Judgment for plaintiff.*

Section 75.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].
Judgment No.

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

The defendant not having filed a notice of defence herein, it is this day adjudged that the plaintiff recover against the said defendant the sum of £ _____ for debt, and the sum of £ _____ for costs.

Dated this _____ day of _____ 18 .

Registrar of the Court.

29.—*Affidavit to accompany judgment summons under section 77.*

Section 77.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

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

I, A.B., the abovenamed plaintiff [or (see section 77) _____] of
] make oath and say as follows:—

1. This action was commenced on the _____ day of _____ 18 ,
[*date of summons*] by a summons specially endorsed with my [*the plaintiff's*] claim herein, in pursuance of the provisions of section 64 of "*The District Courts Act, 1891.*"
2. My [or the plaintiff's] claim so endorsed is for [*here state the claim as in the endorsement*].
3. The defendant gave notice of defence in this action on the _____ day of _____ 18 .

COURTS—

32.—*Judgment against an executor who has wasted assets.*

Section 96.

In the District Court of Queensland
Held at

No. [of *Plaint*].
Judgment No.
Between A.B., plaintiff,
and
C.D., executor
deceased, defendant.

[or administrator] of

Upon hearing this cause at a Court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for and £ for costs; and it is ordered that the defendant do pay the same to the Registrar of this Court, on or before the day of

It is also adjudged that the defendant being the executor [or administrator] of the said deceased, has made away with, wasted, and put to his own use divers goods and chattels [or moneys, *as the case may be*] to the amount of the said sum, which were the property of the said deceased, and which came to the hands of the defendant as executor [or administrator] as aforesaid, to be administered:

Wherefore, it is ordered, that if the defendant shall make default in the payment of the said sum, the same shall be levied by distress and sale of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor [or administrator], if the defendant has so much thereof in his hands to be administered; and if he has not, then that the said sums shall be levied of the proper goods and chattels of the defendant.

Given under the seal of the Court, this day of 18 .

By the Court,

Registrar of the Court.

33.—*Judgment against an executor who has denied his representative character.*

In the District Court of Queensland
Held at

No. [of *Plaint*].
Judgment No.
Between A.B., plaintiff,
and
C.D., executor
deceased, defendant.

[or administrator] of

Upon hearing this cause at a Court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for and £ for costs; and it is ordered that the defendant do pay the same to the Registrar of this Court, on or before the day of 18 .

And the defendant having denied that he is executor [or administrator] of the said deceased, it appears to the Court that he is executor [or administrator] of the said deceased.

Wherefore it is ordered, that if the defendant shall make default in the payment of the said sums, the same shall be levied by distress and sale of the goods and chattels which were of the said deceased, and which came to the hands

The District Court Rules, 1891 (Queensland, adopted).

of the defendant as executor [*or administrator*], if the defendant has so much thereof in his hands to be administered; and if he has not, then that the said sums shall be levied of the proper goods and chattels of the defendant.

Given under the seal of the Court, this day of 18 .

By the Court,
Registrar of the Court.

34.—*Judgment against an executor who has pleaded a release of the claim to himself.*

In the District Court of Queensland
Held at

No. [*of Plaintiff*].
Judgment No.
Between A.B., plaintiff,
and
C.D., executor
deceased, defendant.

[*or administrator*] of

Upon hearing this cause at a Court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for and £ for costs; and it is ordered that the defendant do pay the same to the Registrar of this Court on or before the day of 18 .

And the defendant having alleged that the plaintiff's claim has been released to him, it appears to the Court that he has failed to prove such release.

Wherefore it is ordered that if the defendant shall make default in the payment of the said sums, the same shall be levied by distress and sale of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor [*or administrator*], if the defendant has so much thereof in his hands to be administered; and if he has not, then that the said sums shall be levied of the proper goods and chattels of the defendant.

Given under the seal of the Court, this day of 18 .

By the Court,
Registrar of the Court.

35.—*Judgment against executor or administrator who admits his representative character and denies the demand.*

In the District Court of Queensland
Held at

No. [*of Plaintiff*].
Judgment No.
Between A.B., plaintiff,
and
C.D., executor
deceased, defendant.

[*or administrator*] of

Upon hearing this cause at a Court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for and £ for costs; and it is ordered that the defendant do pay the same to the Registrar of this Court on or before the day of 18 .

The District Court Rules, 1891 (Queensland, adopted).

37.—*Judgment against executor or administrator where the defendant admits his representative character, but denies the demand, and alleges total or partial administration of assets, and the plaintiff proves his demand, and the defendant does not prove the administration.*

In the District Court of Queensland	No. [of <i>Plaint</i>].
Held at	Judgment No.
	Between A.B., plaintiff,
	and
	C.D., executor
[or administrator] of	deceased, defendant.

Upon hearing this cause, at a Court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £
 for and £ for costs; and it is ordered
 that the defendant do pay the same to the Registrar of this Court, on or before
 the day of 18 .

And the defendant having admitted his representative character, but denied the plaintiff's demand, and having also alleged a total [or partial] administration of the goods of the said deceased, which came to the hands of the defendant as executor [or administrator], to be administered, it appears to the Court that the plaintiff has proved to the Court his demand, and also that the defendant has not proved the administration alleged.

And it is further ordered, that if the defendant shall make default in payment of the said sum, the same shall be levied as follows:—the sum of £ [*debt and costs*] of the goods and chattels which were of the said deceased, and which came to the defendant as aforesaid, if the defendant has so much thereof in his hands to be administered; and if he has not, then that the residue of the sum of £ [*debt*] be levied of the goods and chattels of the said deceased, which hereafter shall come to the hands of the defendant as executor [or administrator] as aforesaid to be administered; and that the sum of £ [*the costs*] be levied upon the proper goods of the defendant.

Given under the seal of the Court, this day of 18 .
 By the Court,
 Registrar of the Court.

38.—*Judgment against an executor or administrator who admits his representative character, and the plaintiff's demand, but alleges a total or partial administration of assets, and proves the administration.*

In the District Court of Queensland	No. [of <i>Plaint</i>].
Held at	Judgment No.
	Between A.B., plaintiff,
	and
	C.D., executor
[or administrator] of	deceased, defendant.

Upon hearing this cause, at a Court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £
 for , and it is ordered, that the defendant do pay the
 same to the Registrar of this Court on or before the day
 of 18 .

The District Court Rules, 1891 (Queensland, adopted).

40.—*Summons to an executor of plaintiff's intention to apply to the Court where assets have come to defendant's hand since judgment.*

In the District Court of Queensland
Held at

No. [of *Plaint*].

Between A.B., plaintiff,
[*address*]
[*description*]
and
C.D., executor
deceased, defendant.
[*address*]
[*description*].

[*or administrator*] of

The plaintiff having learnt that property of deceased has come to your [*the defendant's*] hands, as executor [*or administrator*], since the judgment herein, to be administered (and that you have withholden and wasted the same), intends to apply to the Court to be holden on the _____ day of _____ 18____ at the hour of _____ in the forenoon, for an order that the debt [*or damages*] and costs shall be levied of the goods and chattels of the said deceased, if you have so much thereof to be administered (and that if you have not, then that it shall be levied of your proper goods and chattels), and that the costs be levied of your proper goods and chattels.

You are, therefore, hereby summoned to appear at the said Court, at the time and place aforesaid, to answer touching the matters aforesaid.

Dated this _____ day of _____ 18____ .

Registrar of the Court.

To [*the executor or administrator of the deceased*].

41.—*Warrant of execution against the goods of a testator.*

In the District Court of Queensland
Held at

No. [of *Plaint*].
No. [of *Warrant*].

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

[*or administrator*] of

Whereas, at a Court holden at _____ on the _____ day of _____ 18____, the plaintiff obtained a judgment against the defendant, as executor [*or administrator*] of the said deceased, for the sum of _____ for _____ due and owing to the plaintiff by the said deceased in his lifetime, and the sum of _____ for costs of suit; and thereupon it was ordered by the Court that the defendant should pay the same to the Registrar of the Court, on or before the _____ day of _____ 18____ (*or by instalments of _____ days*); and whereas default has been made in payment according to the said order; these are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels which were the property of the said deceased in his lifetime, in the hands of the defendant to be administered, wheresoever they may be found within the district of the Court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of £10), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution; and also to seize and take

COURTS—

45.—*Subpœna to witness.*

Section 102.

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

You are hereby required to attend at [the *Court House* in]
on the day of 18
at the hour of in the forenoon, to give evidence in the
above cause on behalf of the [plaintiff or defendant, as the case may be], and
then and there to have and produce [state any particular documents required],
and all other books, papers, writings, and other documents relating to the said
action which may be in your custody, possession, or power.

In default of your attendance you will be liable to a penalty of fifty
pounds, under section 103 of the Act.

Dated this day of 18 .

Registrar of the Court.

46.—*Order fining a witness for non-attendance.*

Section 103.

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

Whereas of was duly summoned
to appear as a witness in this cause, at a Court this day holden, and at the
time of being so summoned, payment [or a tender of payment] of his expenses
was made according to the scale of allowance settled by the rules of practice
of the District Courts; and whereas he has neglected, without sufficient cause
shown, to appear at the Court [or to produce; here describe what he was re-
quired by summons to produce]; or Whereas being this day
present in Court, and being required by the Court to give evidence in this
cause, refused to be sworn, without alleging as a ground for such refusal that
he had any conscientious scruples with respect to taking an oath [or after
being duly sworn refused to give evidence], [or to produce; here describe what
he was required and bound to produce]: It is hereby ordered that the said
shall forthwith [or on the day of
] pay to the Registrar of this Court a fine of £
for such neglect [or refusal].

Given under the seal of this Court, this day of 18 .

By the Court,

Registrar of the Court.

The District Court Rules, 1891 (Queensland, adopted).

47.—Warrant of execution against the lands and goods of a witness for a fine.

Section 103.

In the District Court of Queensland
Held at

No. [of Warrant].

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

Whereas was duly summoned to appear as a witness in this cause, at a Court holden at on the day of and at the time of being so summoned, payment [or a tender of payment] of his expenses was made, according to the scale of allowance settled by the rules of practice of the District Courts; and whereas he neglected, without sufficient cause shown, to appear at such Court [or to produce; here describe what he was required and bound to produce]; or Whereas being present in Court on the day of 18 and being required by the Court to give evidence, refused to be sworn without alleging, as a ground for such refusal, that he had any conscientious scruples with respect to taking an oath [or after being duly sworn, refused to give evidence, or to produce, &c.] it was thereupon ordered by the Court that he should forthwith [or on the day of] pay to the Registrar of this Court a fine of £ for such neglect [or refusal]; and whereas the said sum has not been paid according to the said order, and the Judge of this Court has ordered it to be levied as hereinafter mentioned: These are therefore to require and order you forthwith to make and levy by distress and sale of the lands, goods, and chattels of the said wheresoever they may be found, within the District of this Court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of £10), the sum stated at the foot of this warrant, being the amount of such fine and the costs of this execution; and also to seize and take any money or banknotes, and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money belonging to him, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same; and to pay what you shall have so levied to the Registrar of this Court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this day of 18 .

By the Court,
Registrar of the Court.

To the bailiff of the said Court and others the assistant bailiffs thereof.

Amount of fine £ s. d.

Notice.—The goods and chattels are not to be sold until after the end of five clear days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said witness.

Application was made to the Registrar for this warrant at minutes past the hour of in the noon of the day of 18 .

The District Court Rules, 1891 (Queensland, adopted).

to apprehend and take the said _____ and to bring and have him
at _____ o'clock on the _____ day of _____
18 _____, at _____ before me, to testify what he knows concerning
the matters in dispute in this action.

Given under the seal of the Court, this _____ day of _____ 18 _____
(Signed) _____ Judge of the Court.

To the bailiffs and others the officers of the said Court, and all peace officers
within the jurisdiction of the said Court.

50.—*Affidavit in support of application under section 105 of the Act.*

Section 105.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

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

I, A.B., of _____, in the Colony of Queensland, make oath and
say as follows:—

1. This action was commenced on the _____ day of _____ 18 _____.
2. The place for trial of this action is _____.
3. E.F. is a material and necessary witness for the plaintiff [*or defendant*]
in this action, and I am advised and verily believe that I cannot proceed
safely to trial of it without his evidence.
4. The said E.F. is at present residing at _____ in the Colony
of _____ [*or as the case may be*].
5. This application is made in good faith, and for the purpose of procuring
the evidence of the said E.F., and not for delay.
[*If the application is made by defendant insert—*
6. I have a good defence to this action, as I am advised and verily
believe _____].
7. All the facts, &c. [*as in affidavit under section 77*].

Taken and sworn, &c.

This affidavit is filed on behalf of the _____

51.—*Judgment in detinue.*

Section 107.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].
Judgment No. _____

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

Upon hearing this cause, at a Court holden this day, it is adjudged that the
plaintiff do recover against the defendant the sum of £ _____ the same

The District Court Rules, 1891 (Queensland, adopted).

53.—*Judgment against defendant for payment of costs.*

Section 107.

In the District Court of Queensland
Held at

No. [of *Plaint*].
Judgment No.

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

Upon hearing the plaintiff's application at a Court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of £ for costs incurred by the plaintiff in preparing for trial [or attending Court] before the notice of payment of money into Court was received by him, such money having been so paid in less than clear days before the return day of the summons.

And it is ordered that the defendant do pay the same to the Registrar of this Court on the day of 18

Given under the seal of the Court, this day of 18

By the Court,
Registrar of the Court.

54.—*Judgment for defendant, or of nonsuit.*

Section 109.

In the District Court of Queensland
Held at

No. [of *Plaint*].
Judgment No.

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

Upon hearing this cause at a Court holden this day, it is adjudged that judgment be entered for the defendant [or that judgment of nonsuit be entered], and that the plaintiff do pay the sum of £ for the defendant's costs; and it is ordered that the plaintiff do pay the same to the Registrar of this Court on the day of 18

Given under the seal of the Court, this day of 18

By the Court,
Registrar of the Court.

COURTS—

61.—*Notice to jurors that attendance not required.*

In the District Court of Queensland
Held at

Sir,—Your attendance as a jurymen will *not* be required at the sittings of the
District Court of Queensland, held at _____ on _____ the
day of _____ 18 .

Dated this _____ day of _____ 18 .
Registrar.

To Mr.

62.—*Notice to jurors of alteration of day of attendance.*

In the District Court of Queensland
Held at

Sir,—Your attendance as a jurymen will be required on _____ the
day of _____ instead of the _____ day
18 .

Dated this _____ day of _____ 18 .
Registrar.

To Mr.

63.—*Affidavit of increase.*

Section 119.

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

We, _____ of _____ attorney for the abovenamed
[plaintiffs] in this action, and _____ of the same place, one of the
[plaintiffs] abovenamed, severally make oath and say:—

And first I, the said _____ for myself say:—

1. That this cause was tried on the _____ day of _____
last, when a verdict was given for the [plaintiffs].
2. That _____ of _____ esquire,
of _____ carpenter, and _____ of
labourer, were necessary and material witnesses for the [plaintiffs]
in this cause, and that it would not have been safe or prudent for
them to proceed to the trial thereof without the evidence of these
witnesses.
3. That the said several witnesses were duly subpoenaed, and, to the best
of my belief, attended on the trial of this cause.

The District Court Rules, 1891 (Queensland, adopted).

4. That I paid [name the commissioner] on the examination *de bene esse* of Mr. _____ in this cause [state sum] for a copy of such examination [state sum], and for his expenses as a witness for the [plaintiffs] on the said trial [state sum].

And I, the said _____ for myself say:—

1. That I paid the said _____ of _____ esquire, [state sum] the said _____ of _____ carpenter, [state sum] and the said _____ of _____ labourer [state sum] for their loss of time, trouble, and expense as witnesses in this cause.

Sworn at _____, in the Colony of Queensland, this
day of _____, one thousand eight hundred and
before me

This affidavit is filed on behalf of the

64.—*Notice to be sent to both parties under section 129
(or 130) of the Act.*

In the District Court of Queensland
Held at

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

Whereas under the provisions of section 129 (or 130) of the Act an action commenced in the Supreme Court of Queensland, wherein A.B., of &c., is plaintiff, and C.D., of &c., is defendant, has been ordered by [name of Judge of Supreme Court] to be tried in this Court.

Take notice, that the said action will be heard in this Court at the Civil Sittings commencing on the _____ day of _____ at the hour of _____ in the forenoon.

Given under the seal of the Court, this _____ day of _____ 18 _____
Registrar of the Court.

To the plaintiff and defendant.

65.—*Certificate of the result of the hearing of a cause under sections
129 and 130.*

In the District Court of Queensland
Held at

I hereby certify, that an action, commenced in the Supreme Court of Queensland wherein _____ is plaintiff and _____ is defendant, which under section _____ of the Act was ordered by _____ to be tried in this Court, has been heard accordingly in this Court, on this day, and the result was as follows:—

Dated this _____ day of _____ 18 _____
Registrar.

The District Court Rules, 1891 (Queensland, adopted).

the Judge of the Court, in his discretion for such time as he shall, by endorsement to be by him made on this order, direct; and that the said certificate, when made or given, may be referred back again to the arbitrators at the like discretion of the said Judge, without the further consent of the said parties; and in case either of the said parties shall neglect or refuse to attend any appointment to be made by the said arbitrators for proceeding under this order, after days notice thereof, in writing, shall have been given to him, by serving the same personally, or by leaving it at his last or usual place of abode, the said arbitrators shall be at liberty to proceed *ex parte* on the matters of the said reference, and their certificate shall be as valid as if both the said parties had duly attended before them. And it is further ordered, that the costs of the said reference shall be in the discretion of the arbitrators, and that the costs of the action shall abide the event; and it is lastly ordered that the submission to arbitration shall not be revocable by either party.

Given under the seal of the Court, this day of 18 .

By the Court,
Registrar of the Court.

69.—*Warrant of attachment and seizure under section 136.*

Section 136.

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

Whereas the plaintiff [*or as the case may be*] has shown to the satisfaction of the Judge [*or Registrar*] that he [*or the plaintiff*] has a cause of action against the defendant to the amount of £ [£10 *or upwards*] [*or that the plaintiff has sustained damage from the defendant to the amount of £ [£10 *or upwards*]*], and that the defendant is about to leave the Colony [*or as the case may be*], and that the action will be defeated by such departure [*or as the case may be*]: These are therefore to require and order you forthwith to seize and attach the goods and chattels of the defendant wheresoever they may be found, within the district of this Court, or so much thereof as may be sufficient to satisfy the plaintiff's claim (except the wearing apparel and bedding of the defendant or his family, and the tools and implements of his trade, if any, to the value of £10), and to hold the same unless and until the defendant, or someone on his behalf, do, within fourteen days after the return hereof, give bail with two sufficient sureties in the amount of £ (being the amount of the plaintiff's claim herein, and £5 for costs), or deposit the said sum of £ in Court to abide the event of the action, and in default of such bail or deposit being given or made to hold the same until execution be issued or further order made.

Given under the seal of the Court, this day of 18 .

Registrar of the Court.

To the bailiff of the said Court and others, the assistant bailiffs hereof.

The District Court Rules, 1891 (Queensland, adopted).

71.—*Summons under section 139 of the Act.*

Section 139.

In the District Court of Queensland
Held at

No. [of *Plaint*].

Between A.B., plaintiff,
[*address*]
[*description*]
and
C.D., defendant,
[*address*]
[*description*].

You are hereby summoned to appear at a Court to be holden at
on the day of
18 , at the hour of in the forenoon, to answer the plaintiff
why possession of a certain situate at
should not be given up to the plaintiff, by reason of the rent payable in respect
thereof by you being half a year in arrear, and the plaintiff having right by
law to re-enter for the non-payment thereof.

If you shall pay to the Registrar the rent in arrear, and the costs of this
action, as stated at the foot of the summons, clear days
before the day you are required to appear to this summons, this action will
cease.

And take notice, that if you do not pay such rent in arrear and costs, or
appear at the said Court and show cause why possession of the said
should not be recovered against you, you may be ordered by the Court to give
possession of such premises to the plaintiff; and that if such order be not
obeyed, a warrant may issue to give possession to the plaintiff.

Dated this day of 18 .

Registrar of the Court.

Costs of this summons £ s. d.

(On back.)

Take notice.—If the plaintiff in this action be not your immediate landlord,
you must, upon being served with this summons, or if this summons shall come
to your knowledge, forthwith give notice thereof to your immediate landlord;
and if you do not give such notice you will be liable, under section 140 of the
Act, to forfeit to your immediate landlord three years rack-rent of the premises
held by you of him in respect of which the summons shall have issued.

72.—*Order for recovery of tenement.*

Section 137.

In the District Court of Queensland
Held at

No. [of *Plaint*].

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

Upon the hearing of this cause at a Court holden this day, it is ordered, that
the defendant do give to the plaintiff possession of a certain

COURTS—

[or messuage with appurtenances, or part of a certain house with appurtenances, or as the case may be] situate at _____ day of _____] and it is adjudged that the plaintiff do recover against the defendant the sum of £ _____ for rent [or mesne profits or for rent and mesne profits] and £ _____ costs.

And it is ordered, that the defendant do pay to the Registrar of the Court the sum [or sums] abovementioned on or before the _____ day of _____ 18 . .

Given under the seal of the Court, this _____ day of _____ 18 . .

By the Court,

Registrar of the Court.

To the defendant.

Take notice, that if you do not give such possession, a warrant may issue requiring the bailiff of the Court to give possession of the said _____ to the plaintiff, and to levy the sum abovementioned, together with further costs.

73.—*Notice of appeal to other party.*

Section 144.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

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

Take notice that the plaintiff [or defendant] intends to appeal to the Supreme Court against the judgment [or order] of His Honour Judge _____ given [or made] on the hearing of the above action on the _____ day of _____ 18 directing that [here set out judgment or order]: On the grounds [here set out grounds in numbered paragraphs].

Dated this _____ day of _____ 18 . .

Signed G.H., solicitor for the abovenamed plaintiff [or defendant].

To E.F., solicitor for the abovenamed defendant [or plaintiff].

74.—*Bond where a plaintiff is appellant.*

Section 144.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

Between A.B., plaintiff,
and
G.H., defendant.

Know all men by these presents that we, A.B. of, &c. and C.D. of, &c., and E.F. of, &c., are jointly and severally held and firmly bound to G.H. of, &c., in £ _____, to be paid to the said G.H., or his certain attorney,

COURTS—

And whereas the said action came on to be tried in the said Court on the day of _____ last, when a judgment was given for the said G.H. in the sum of £ _____ :

And whereas the said A.B., being dissatisfied with such judgment, gave due notice to the said G.H. of his, the said A.B.'s, intention to appeal from the same to the Supreme Court of Queensland, according to the statute in such case made and provided:

And whereas it is thereby provided that the party who shall appeal as aforesaid shall give security, to be approved by the Registrar of the Court aforesaid, for the costs of the appeal, whatever be the event thereof, and also for the amount of the judgment if such party be the defendant, and the appeal be dismissed:

And whereas the abovenamed C.D. and E.F., at the request of the said A.B., have agreed to enter into the above-written obligation, for the purposes aforesaid, and the security intended to be hereby given has been approved of by the Registrar of the said District Court, as appears by his allowance at the foot hereof*: Now the condition of this obligation is such, that if the above-bounded A.B., C.D., and E.F., any or either of them, shall pay unto the said G.H., his executors, administrators, or assigns, the costs of the said appeal, as the said High Court shall order (and shall also in case the said appeal shall be dismissed, pay to the said G.H., his executors, administrators, or assigns, the said sum of £ [amount of the judgment†]), then this obligation shall be void, otherwise shall remain in full force.

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

Signed, sealed, and delivered by the above-bounded in the presence of

* I approve of this bond.—I.K., Registrar. (L.S.)

† To be omitted, if amount previously paid into Court.

76.—*Agreement under section 148 that the Judge's decision shall be final.*

Section 148.

In the District Court of Queensland

No. [of *Plaint*].

Held at

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

We [*the respective attorneys of*], the abovenamed plaintiff and defendant, do hereby, under the provisions of section 148 of "*The District Courts Act, 1891*," agree that the decision of the Judge of this Court in this action shall be final.

Given under our hands this

day of

18

(Signed) Plaintiff [’s attorney].
Defendant [’s attorney].

The District Court Rules, 1891 (Queensland, adopted).

77.—Order for costs of the day, under section 153 of the Act.

Section 153.

In the District Court of Queensland

No. [of *Plaint*].

Held at

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

Whereas a rule [*or summons*] has been granted by [*Supreme Court or Judge*], requiring cause to be shown why a writ of *certiorari* [*or prohibition*] should not issue in this cause, and no order has been made by such Court [*or Judge*], respecting the costs in this Court; and whereas a copy of such rule [*or summons*] has not been served on the plaintiff [*or defendant*] [*or Registrar*], according to section 153 of the Act; and whereas the plaintiff [*or defendant*] has on this day appeared at this Court to prosecute [*or defend*] this cause: It is ordered, that the defendant [*or plaintiff*] do pay the sum of £ for the plaintiff's [*or defendant's*] costs of the day; and it is ordered, that the defendant [*or plaintiff*] do pay the same to the Registrar of the Court, on the day of

18

Given under the seal of the Court, this day of 18 .

By the Court,

Registrar of the Court.

78.—Order for costs of the day, under section 154 of the Act.

Section 154.

In the District Court of Queensland

No. [of *Plaint*].

Held at

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

Whereas a writ of *certiorari* [*or prohibition*] has been granted in this cause by [*the Supreme Court or Judge*] on the *ex parte* application of the defendant [*or plaintiff*] who has not lodged it with the Registrar of the Court or has not given notice to the plaintiff [*or defendant*] that it has issued, two clear days before this day, being the day fixed for hearing this cause; and whereas the said [*Supreme Court or Judge*] has made no order respecting the costs of the cause in this Court; and whereas the plaintiff [*or defendant*] has on this day appeared at this Court to prosecute [*or defend*] this cause: It is ordered that the defendant [*or plaintiff*] do pay the sum of £ for the plaintiff's [*or defendant's*] costs of the day; and it is ordered that the defendant [*or plaintiff*] do pay the same to the Registrar of the Court on the day of 18 .

Given under the seal of the Court this day of 18 .

Registrar of the Court.

COURTS—

79.—Warrant of execution against the lands and goods of defendant.

Section 161.

In the District Court of Queensland
Held at

No. [of *Plaint*].
No. [of *Warrant*].

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

Whereas on the _____ day of _____ 18____, the plaintiff obtained a judgment in this Court against the defendant for the sum of £ _____ for debt [or damages] and costs, and it was thereupon ordered by the Court that the defendant should pay the same to the Registrar on the _____ day of _____ [or by instalments of _____ for every _____ days]; and whereas default has been made in payment according to the said order: These are therefore to require and order you forthwith to make and levy by distress and sale of the lands, goods, and chattels of the defendant, wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of £10), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution, and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money of the defendant, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same; and to pay what you shall have so levied to the Registrar of this Court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this _____ day of _____ 18____.

By the Court,

Registrar of the Court.

To the bailiff of the said Court and others the assistant bailiffs thereof.

		£ s. d.
Amount for which judgment was obtained	
Costs	
Mileage	
Execution costs	

By amount paid into Court	

Total amount to be levied	£ _____

Notice.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the Registrar for this warrant at _____ minutes past the hour of _____ in the _____ noon of the _____ day of _____ 18____.

The District Court Rules, 1891 (Queensland, adopted).

80.—*Warrant of execution against the lands and goods of plaintiff.*

In the District Court of Queensland No. [of *Plaint*].
 Held at No. [of *Warrant*].
 Between A.B., plaintiff,
 and
 C.D., defendant.

Whereas at a Court held at _____ on the _____ day of _____ 18____, it was ordered by the Court that judgment should be entered for the defendant [or that judgment of non-suit be entered] and that the plaintiff should pay to the Registrar of the Court on or before the _____ day of _____ the sum of _____ for the defendant's costs of suit; and whereas default has been made in payment according to the said order; These are therefore to require and order you forthwith to make and levy by distress and sale of the lands, goods, and chattels of the plaintiff, wheresoever they may be found within the district of this Court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of £10), the sum stated at the foot of this warrant, being the amount due to the defendant under the said judgment, including the costs of this execution, and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money of the plaintiff, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same; and to pay what you shall have so levied to the Registrar of the Court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this _____ day of _____ 18____.

By the Court,
 Registrar of the Court.

To the bailiff of the said Court and others the assistant bailiffs thereof.

	£	s.	d.
Costs adjudged
Mileage
Execution costs
	<hr/>		
By amount paid into Court
	<hr/>		
Total amount to be levied
	<hr/>		

Notice.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said plaintiff.

Application was made to the Registrar for this warrant at _____ minutes past the hour of _____ in the _____ noon of the _____ day of _____ 18____.

COURTS—

81.—*Præcipe for warrant of execution.*

Section 161.

In the District Court of Queensland
Held at

No. [of *Plaint*].
No. [of *Warrant*].

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

Seal a warrant of execution directed to the bailiff of the District Court of Queensland, at _____ to levy against the lands, goods, and chattels of the above-named _____ the sum of £ _____ and the sum of £ _____ for costs.

Judgment dated the		day of		A.D. 18
				£ s. d.
Judgment debt	..	..	..	..
Costs as taxed	..	..	..	..
Mileage	..	..	..	..
Execution costs	..	..	..	..

Paid into Court	..	..	..	..

Levy	..	..	..	£ _____

Warrant applied for at _____ minutes past the hour of _____ day of _____
in the _____ noon of the _____
A.D. 18 _____

82.—*Warrant of execution in detinue against the lands and goods of defendant.*

Section 161.

In the District Court of Queensland
Held at

No. [of *Plaint*].
No. [of *Warrant*].

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

Whereas at a Court holden at _____ on the _____ day of _____ 18 _____, the plaintiff obtained a judgment against the defendant for the sum of £ _____ the same being assessed by this Court to be the value of certain chattels of the plaintiff wrongfully detained by the defendant, and for the further payment of £ _____ for damages for the detention of the said chattels, and of £ _____ for costs; and thereupon it was ordered by the Court, that the defendant should pay the same to the Registrar of this Court on the _____ day of _____ [or by instalments of _____ for every _____ days, the first instalment to be paid on the _____ day of _____ 18 _____] *And it was further ordered, that if the defendant should on or before the said last mentioned day pay to the Registrar the said sums respectively above ordered to be paid for damages and costs, and also return to the plaintiff the said chattels, and if the plaintiff should then accept the same, then satisfaction of the said judgment should be entered up by the Registrar on the production to him of a receipt for the said chattels, signed by

The District Court Rules, 1891 (Queensland, adopted).

the plaintiff or his attorney;* and whereas† the defendant did not on the said day of 18, return the said chattels to the plaintiff, and† default has “also” been made in payment according to the said orders: These are therefore to require and order you forthwith to make and levy by distress and sale of the lands, goods, and chattels of the defendant where-soever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of £10), the sum stated at the foot of this warrant being the amount due to the plaintiff under the said order, including the costs of this execution; and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money of the defendant, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same; and to pay what you have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this _____ day of _____ 18 .

By the Court,

Registrar of the Court.

To the bailiff of the said Court, and others the assistant bailiffs thereof.

N.B.—If the judgment do not contain the words between * and *, omit those words in the warrant, and also the words between the marks † and †, and the word “also.”

				£	s.	d.
Value of goods detained
Damages for their detention
Costs
<hr/>						
Paid into Court
<hr/>						
Remaining due
Mileage
<hr/>						
Total amount to be levied	£
<hr/>						

Notice.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the Registrar for this warrant at _____ minutes past the hour of _____ in the _____ of the _____ day of _____ 18 . noon

83.—*Summons for a writ of capias ad satisfaciendum.*

Section 170.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

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

You are hereby summoned to appear at the District Court of Queensland, held at _____, on _____ the _____

COURTS—

day of _____, at _____ o'clock in the
noon, to show cause [here state in full what the defendant is called upon to
show cause to].

Dated this _____ day of _____ 18 .

By the Court,

Registrar.

To the abovenamed

84.—Order for writ of *capias ad satisfaciendum*.

In the District Court of Queensland No. [of *Plaint*].
Held at _____

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

the _____ day of _____ in the
year of Our Lord one thousand eight hundred and _____

Upon reading the affidavit of [state name and address] sworn and filed herein,
and upon hearing _____ and being satisfied that the abovenamed
defendant [state the grounds at length] I do hereby authorise
the Registrar of the said Court, to issue a writ of *capias ad satisfaciendum* to
arrest the said _____ the abovenamed defendant, for the amount
of the verdict, order, and judgment obtained against him in this Court and
cause.

(Judge's signature.)

						£ s. d.
Judgment	
Costs	
Costs of <i>ca. sa.</i>	

						£ _____

85.—Writ of *capias ad satisfaciendum*.

In the District Court of Queensland No. [of *Plaint*].
Held at _____

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

To _____ bailiff of the said Court, and others, the officers of the
said Court, and all peace officers within the jurisdiction of the said Court, and
to the governor or keeper of the gaol at [here name the gaol], and to each and
every of them.

The District Court Rules, 1891 (Queensland, adopted).

Whereas at a District Court held at _____ on the
 day of _____ 18____, the abovenamed _____
 in a certain cause recovered against the abovenamed _____ the sum
 of _____ pounds _____ shillings and _____
 pence, for his damages [or costs, as the case may be], together with the sum of
 _____ pounds _____ shillings and _____
 pence, the costs of the said suit, amounting together to the sum of
 _____ pounds _____ shillings and _____ pence; and whereas,
 the said _____ not having been paid the said sum of
 _____ pounds _____ shillings and _____ pence, it was
 ordered by a special order of the Judge of the said District Court, bearing date
 on the _____ day of _____ 18____, that the said
 _____ should be arrested in execution according to the provisions
 of the Act, until the said judgment and costs [or costs, as the case may be], and
 the costs of this execution, amounting altogether to the sum of
 _____ pounds _____ shillings and _____ pence, should be paid,
 or until he should be discharged by due course of law.

These are therefore to require you, the said bailiff, and others, the officers of
 the said Court, and all peace officers within the jurisdiction of the said Court,
 to take the said _____ and to deliver him to the governor or keeper
 of the said gaol, and you, the said governor or keeper of the said gaol, are hereby
 required to receive the said _____ and him safely to keep in the said
 gaol at _____ until the said sum of _____ pounds
 _____ shillings and _____ pence be duly paid, or until he be sooner discharged
 by due course of law; for which this shall be your sufficient warrant.

Given under the seal of this Court, this _____ day of _____ 18____

 Registrar.

	£	s.	d.			
Judgment
Costs
Execution
	£					

86.—Certificate for the discharge of a defendant from custody.

Section 171.

In the District Court of Queensland
 Held at _____

No. [of *Plaint*].

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

I hereby certify that the defendant, who was committed to your custody by
 virtue of a writ of *capias ad satisfaciendum*, under the seal of this Court, bearing
 date the _____ day of _____ 18____ (has paid and satisfied the
 sum of money for the non-payment whereof he was so committed, together with
 all costs due and payable by him in respect thereof; and that the defendant)
 may, in respect of such warrant, be forthwith discharged out of your custody.

Given under the seal of the Court, this _____ day of _____ 18____

By leave of the Judge of the Court,

Registrar of the Court.

To the governor or keeper of _____

COURTS—

To the bailiff of the said Court.

	£	s.	d.
Costs adjudged			
Mileage			
Total amount to be levied			

Notice.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said claimant.

Application was made to the registrar for this warrant at _____ minutes
 past the hour of _____ in the _____ noon of the
 day of _____ 18 .

94.—Order for examination of judgment debtor.

Section 181.

In the District Court of Queensland _____ No. [of *Plaint*].
 Held at _____

Between A.B., judgment creditor,
 and
 C.D., judgment debtor.

Upon hearing _____ and upon reading the affidavit of
 filed the _____ day of _____ 18 , and

It is ordered that the abovenamed judgment debtor attend and be orally examined as to whether and what debts are owing to him before the Judge in Chambers (or the Registrar or person appointed), at such time and place as he may appoint, and that the said judgment debtor produce his (books) before the said _____ at the time of the examination, and that the costs of this application be _____

Dated the _____ day of _____ 18 .

By the Court,

 Registrar.

95.—Garnishee order attaching debt.

In the District Court of Queensland _____ No. [of *Plaint*].
 Held at _____

Between A.B., judgment creditor,
 and
 C.D., judgment debtor,
 E.F., garnishee.

Upon hearing _____ and upon reading the affidavit of
 filed herein on the _____ day of _____ 18 , and

The District Court Rules, 1891 (Queensland, adopted).

It is ordered that all debts owing and accruing due from the abovenamed garnishee to the abovenamed judgment debtor be attached to answer a judgment recovered against the said judgment debtor by the abovenamed judgment creditor in the District Court of Queensland, held at _____ on the _____ day of _____ 18____, for the sum of £ _____ on which judgment the sum of £ _____ remains due and unpaid.

And it is further ordered that the said judgment creditor may be at liberty to issue a summons requiring the said garnishee to appear before the Judge in Chambers at _____ Court House, on the _____ day of _____ 18____, at _____ o'clock in the _____ noon, and to show cause why he should not pay the said judgment creditor the debt due from the said garnishee to the said judgment debtor or so much thereof as is sufficient to satisfy the said judgment and the costs of this application and of the proceedings arising therefrom and incidental thereto.

Dated the _____ day of _____ 18____.

By the Court,

Registrar of the Court.

96.—*Garnishee order absolute.*

Section 184.

In the District Court of Queensland
Held at _____

No. [of *Plaint*].

Between A.B., judgment creditor,
and
C.D., judgment debtor,
E.F., garnishee.

Upon hearing _____ and upon reading the affidavit of _____ filed the _____ day of _____ 18____, and _____ whereby it was ordered that all debts owing or accruing due from the abovenamed garnishee to the abovenamed judgment debtor, should be attached to answer a judgment recovered against the said judgment debtor by the abovenamed judgment creditor, in the District Court of Queensland, held at _____ on the _____ day of _____ 18____, for the sum of £ _____ on which judgment the said sum of £ _____ remained due and unpaid:

It is ordered that the said garnishee do forthwith pay the said judgment creditor the debt due from him to the said judgment debtor [or so much thereof as may be sufficient to satisfy the judgment debt] and that in default thereof execution may issue for the same, and that the costs of the application be _____

Dated this _____ day of _____ 18____.

By the Court,

Registrar of the Court.

COURTS—

97.—Warrant of commitment for contempt.

Section 198.

In the District Court of Queensland
Held at

No. [of Warrant].

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

To the bailiff and others, the officers of the said Court, and all peace officers within the jurisdiction of the said Court, and to the governor or keeper of the [gaol used by the Court].

Whereas at a Court holden on this day, A.B. wilfully insulted the Judge during his sitting in Court [or C.D., the Registrar, bailiff, or officer, as the case may be, of the said Court during his attendance in Court, or wilfully interrupted the proceedings of the said Court, or wilfully misbehaved in the said Court]: These are therefore to require you, the said bailiff, officers, and others, to take the said A.B., and to deliver him to the governor [or keeper] of the abovenamed prison, and you, the said governor [or keeper, &c.], to receive the said A.B., and him safely keep in the said prison for _____ days from the arrest under this warrant, or until he shall be sooner discharged by due course of law.

Given under the seal of the Court, this _____ day of _____ 18 .

Judge of the Court.

98.—Summons in nature of a scire facias where any change of plaintiff.

In the District Court of Queensland
Held at

No. [of Plaintiff].

Between E.F., plaintiff,
[address]
[description]
and
C.D., defendant,
[address]
[description].

Whereas A.B., at a Court holden at _____ on the _____ day of _____ 18 ., obtained a judgment against you for the sum of £ _____ for debt and costs, which judgment now remains unsatisfied; and whereas the said A.B. has since died [or state circumstances requiring revival of judgment] and the said plaintiff is his executor [or state representative character]: You are hereby summoned to appear at a Court to be holden at _____ on the _____ day of _____ 18 ., at the hour of _____ in the forenoon, to show cause why judgment should not be entered up at the suit of the plaintiff on the judgment so obtained against you, and why execution should not issue thereon.

Dated this _____ day of _____ 18 .

Registrar of the Court.

£ s. d.

Due on judgment

To the defendant.

N.B.—Where the judgment in the original cause was for the defendant, the above form must be altered accordingly.

The District Court Rules, 1891 (Queensland, adopted).

99.—*Summons in nature of scire facias where any change of defendant.*

In the District Court of Queensland
Held at

No. [of *Plaint*].

Between A.B., plaintiff,
[*address*]
[*description*]
and
E.F., defendant,
[*address*]
[*description*].

Whereas the plaintiff, at a Court holden at _____ on the _____ day of _____ 18____, obtained a judgment against C.D., of [*name, address, and description of C.D.*] for the sum of £ _____ for _____ and costs, which judgment now remains unsatisfied; and whereas the said C.D., has since died [*or state cause of revival being necessary*] and you are his executor [*or state other representative character*]: You are hereby summoned to appear at a Court to be holden at _____ on the _____ day of _____ 18____, at the hour of _____ in the _____ noon, to show cause why judgment should not be entered up against you, at the suit of the plaintiff, on the judgment so obtained, and why execution should not issue thereon.

Dated this _____ day of _____ 18____.

Registrar of the Court.

£ s. d.

To the defendant.

Due on judgment _____

N.B.—Where the judgment in the original cause was for the defendant, the above form must be altered accordingly.

100.—*Judgment on scire facias summons on change of plaintiff.*

In the District Court of Queensland

No. [of *Plaint*].

Judgment No.

Held at

Between E.F., plaintiff,
and
C.D., defendant.

Whereas A.B., at a Court holden at _____ on the _____ day of _____ 18____, obtained a judgment against the defendant for payment of £ _____ for _____ and costs, which judgment now remains unsatisfied; and whereas the said A.B. has since died [*or state circumstances requiring revival of judgment*], and the plaintiff is his executor [*or state other representative character*]: It is ordered that the said plaintiff be at liberty to issue execution on the said judgment against the said defendant (and for the sum of £ _____ for further costs.)

Given under the seal of the Court, this _____ day of _____ 18____.

By the Court,

Registrar of the Court.

£ s. d.

Due on judgment _____

N.B.—Where the judgment in the original cause was for the defendant, the above form must be altered accordingly.

COURTS—

101.—*Judgment on scire facias on change of defendant.*

In the District Court of Queensland

No. [of *Plaint*].

Judgment No.

Held at

Between A.B., plaintiff,
and
E.F., defendant.

Whereas the plaintiff, at a Court holden at _____ on the
day of _____ 18____, obtained a judgment against C.D. for the sum
of £ _____ for _____ and costs, which judgment now remains
unsatisfied; and whereas the said C.D. has since died [*or, state other circumstances
requiring revival of judgment*], and the defendant is his executor [*or state other
representative character*], [*conclude according to the rules and forms as to
executors and the defence made*].

Given under the seal of the Court, this _____ day of _____ 18____.

By the Court,

Registrar of the Court.

£ s. d.

Due on judgment

N.B.—Where the judgment in the original cause was for the defendant, the above form must be altered accordingly.

102.—*Notice to produce (general form).*

In the District Court of Queensland

No. [of *Plaint*].

Held at

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

Take notice, that you are hereby required to produce and show to the Court at
the hearing of this _____ all books, papers, letters, copies of letters,
and other writings and documents in your possession, custody, or power, containing
any entry, memorandum, or minute relating to the matters in question in this
_____ and particularly specify them.

Dated the _____ day of _____ 18____.

(Signed) _____ of

Solicitor for the abovenamed plaintiff
[or defendant].

To the abovenamed defendant's [or plaintiff's] solicitor.

The District Court Rules, 1891 (Queensland, adopted).

SCHEDULE OF BOOKS FOR REGISTRARS AND BAILIFFS.

I.—Plaint Book.

Date.	No.	Plaintiff.	Residence.	Attorney.	Defendant.	Residence.	Attorney.	Cause of Action.	Amount claimed.	Fee for Plaintiff, &c.	Fee for Service of Summons.	Fee for Subpœna.	Fee for Service of Subpœna.	Amount paid into Court before Judgment.	Notice of Defence when filed.	Notice requiring Jury when filed.
									£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		

II.—Minute Book.

No.	Plaintiff.	Attorney.	Defendant.	Attorney.	Cause of Action.	Amount claimed.	Special Defence.	By whom Jury required.	Judgment for whom.	Amount of Judgment.	Costs.	Order.	Appeal.	New Trial.
						£ s. d.				£ s. d.	£ s. d.			

III.—Judgment Book.

No. of Judgment.	Date when signed.	No. of Plaintiff.	Defendant.	Plaintiff.	Date when Judgment delivered.	Nature of Judgment.	Verdict.	Debt or Damages.	Costs.	Remarks.
								£ s. d.	£ s. d.	

COURTS—

IV.—Debt Attachment Book.

No. of Plaintiff.		Plaintiff.	Defendant.	Garnishee.	ATTACHMENT.		Amount to be attached.	Amount recovered.	When recovered.	To whom paid.	When paid.
No.	Year.				When Issued.	By Whom.					
							£ s. d.	£ s. d.			

V.—Execution Book.

No. of Plaintiff.	No. of Warrant.	Day and Hour on which Warrant was applied for.		Plain-tiff.	Defend-ant.	Resi-dence.	Amount of Debt, or Damages and Costs.	Execu-tion Fees.	Mileage.	Amount paid into Court.	Date of Arrest or Levy.	Minute of Return.
		Day.	Hour. h. m.									
							£ s. d.	£ s. d.	£ s. d.			

VI.—Foreign Execution Re-issued Book.

No. of Plaintiff.	No. of Warrant.	Court from which Warrant Issued.	When received.	Plain-tiff.	Defendant.	Residence.	Amount to be levied.	When Warrant handed to Bailiff.	Result of Levy.	Date of Levy.	Date of Return to Foreign Court.	Minute of Return.
							£ s. d.		£ s. d.			

The District Court Rules, 1891 (Queensland, adopted).

VII.—*Bailiff's Warrant Book*, for entry of what has been done under Process of Execution.

No. of Plaintiff.	No. of Execution.	Defendant.	Execution.	Amount to be levied.	Fees for making levy.	Fees for possession.	Gross amount levied.	Rent paid.	Costs of distress.	Costs allowed on Interpleader.	Amount paid into Court.	When paid.	If not executed, why not?
				£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		

In the District Court of _____ holden at _____

VIII.—*Bailiff's Return of Summonses* on Plaints issued to him, returnable at Court to be holden

on the _____ day of _____ 18 .

No. of Plaintiff.	Plaintiff.	Defendant.	Mode of Service.
D 20	John Smith	James Brown	On defendant's wife.
D 21	James Wilks	John Head	On defendant's landlady.
D 22	Abraham Furness ..	Richard Brook	House closed to prevent service; summons affixed to the door.
D 24	Richard Brindley ..	James Smith	Not served.

Dated this _____ day of _____ 18 .

Bailiff.

The District Court Rules, 1891 (Queensland, adopted).

SCALE of COUNSEL'S and SOLICITOR'S FEES⁽²¹⁾ on TAXATION as between PARTY and PARTY.

	FEES and CHARGES allowed on Taxation of:					
	Plaintiff's Costs, when amount recovered—			Defendant's Costs, when amount claimed—		
	Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
ACTIONS—						
In all actions, except for damages, where the amount claimed exceeds, but the amount recovered does not exceed, £10, the plaintiff shall, on taxation as between party and party, be entitled only to such costs as he would be entitled to had he claimed for under £10, unless the Judge shall otherwise order.						
AFFIDAVIT, INSTRUCTIONS FOR—						
Not being an affidavit of service or made by the solicitor or his clerk	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
Drawing per folio of 72 words or figures	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0
Copying per folio of 72 words or figures	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
Attending deponent to be sworn, except when made by bailiff or other official	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
APPEAL OR NEW TRIAL—						
Instructions for appeal or application for new trial (where no brief)	0 6 8	0 6 8	0 6 8	0 10 6	0 10 6	1 1 0
Attendance at Court or Chambers when application is made by the solicitor for the party or by a partner or clerk of such solicitor or his firm .. (Or such fee as the Judge may order.)	2 2 0	2 2 0	2 2 0	2 2 0	2 2 0	2 2 0
APPLICATION—						
Instructions to make any interlocutory, or other application to the Court not herein otherwise provided for (where no brief)	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 10 6
Attendance when application is made by the solicitor for the party or by a partner or clerk of such solicitor or his firm	1 1 0	1 1 0	1 1 0	2 2 0	2 2 0	3 3 0

(21) As to the scale of Counsel's and Solicitor's fees, see Rule 11 of the Rules of the Central Court for Regulating the Admission of Barristers and Solicitors and their Fees, printed on p. 629, and the Rules of Court of the Supreme Court (Solicitors' Costs and Fees and Court Fees) (Queensland, adopted), printed on p. 632.

COURTS—

SCALE of COUNSEL'S and SOLICITOR'S FEES—*continued.*

	FEES and CHARGES allowed on Taxation of: Plaintiff's Costs, when amount recovered— Defendant's Costs, when amount claimed—					
	Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
ARBITRATION—						
The allowances for costs of arbitration are to be in the discretion of the Registrar, subject to review by the Judge.						
ATTENDANCE—						
In Court when action set down for hearing, but not called on	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
In Court to apply for judgment in undefended action ..	0 10 6	0 10 6	0 10 6	1 1 0	1 1 0	1 1 0
In Court or Chambers instructing counsel or solicitor acting as advocate:—						
(a) On appeal or application for new trial ..	0 6 8	0 10 6	0 10 6	0 13 4	1 1 0	1 1 0
(b) On any interlocutory or other application	0 6 8	0 6 8	0 6 8	0 13 4	0 13 4	0 13 4
(c) On examination <i>de bene esse</i> ..	0 13 4	0 13 4	0 13 4	1 1 0	1 1 0	1 1 0
(d) On trial of defended action	1 1 0	1 1 0	1 1 0	2 2 0	2 2 0	2 2 0
Any necessary attendance at the office of the Registrar, or on the opposite party, or on counsel or solicitor acting as advocate not herein otherwise provided for	0 3 4	0 3 4	0 6 8	0 6 8	0 6 8	0 6 8
(The Registrar will not allow more than one charge for different attendances which should, in his opinion, have been made at the same time.)						
BRIEF—						
Instructions for—to counsel or solicitor other than the solicitor or member of the firm of solicitors for the party:—						
(a) On appeal or application for new trial ..	0 6 8	0 6 8	0 6 8	0 10 6	0 10 6	1 1 0
(b) On any interlocutory or other application in Court or Chambers	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 10 6
(c) On examination <i>de bene esse</i> ..	0 10 6	0 10 6	0 10 6	1 1 0	1 1 0	1 1 0
(d) On trial of action ..	1 1 0	2 2 0	3 3 0	5 5 0	7 7 0	10 10 0
In latter case, in discretion of Registrar, not to exceed ..	3 3 0	5 5 0	7 7 0	10 10 0	15 15 0	21 10 0

The District Court Rules, 1891 (Queensland, adopted).

SCALE of COUNSEL'S and SOLICITOR'S FEES—continued.

	FEES and CHARGES allowed on Taxation of:					
	Plaintiff's Costs, when amount recovered—		Defendant's Costs, when amount claimed—			
	Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Drawing any necessary, including proofs of evidence, per folio of 72 words or figures ..	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0
Copying, with all necessary documents to accompany, per folio of 72 words or figures ..	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
Attendance therewith on counsel or solicitor acting as advocate	0 3 4	0 3 4	0 6 8	0 6 8	0 6 8	0 6 8
COPYING—						
Any document not herein otherwise provided for, per folio of 72 words or figures ..	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
COSTS—						
Drawing, per folio of 72 words or figures	0 0 8	0 0 8	0 0 8	0 0 8	0 0 8	0 0 8
Copying, per folio of 72 words or figures	0 0 6	0 0 6	0 0 6	0 0 6	0 0 6	0 0 6
Attending taxation	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
DRAWING—						
Any necessary document not herein otherwise provided for, per folio of 72 words or figures	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0
ENDORSEMENT—						
Of claim or summons, if special	0 3 4	0 3 4	0 3 4	0 5 0	0 5 0	0 5 0
EXAMINATION DE BENE ESSE—						
Instructions for (where no brief)	0 10 6	0 10 6	0 10 6	1 1 0	1 1 0	1 1 0
Attendance when examination conducted by the solicitor for the party or by a partner or clerk of such solicitor or his firm	2 2 0	2 2 0	2 2 0	2 2 0	2 2 0	2 2 0
(Or such fee as the Judge may order.)						
FEE ON BRIEF—						
To counsel or solicitor other than the solicitor or member of the firm of solicitors for the party—						
(a) On appeal or application for new trial ..	3 3 0	3 3 0	3 3 0	3 3 0	3 3 0	3 3 0

COURTS—

SCALE of COUNSEL'S and SOLICITOR'S FEES—*continued.*

	FEES and CHARGES allowed on Taxation of:					
	Plaintiff's Costs, when amount recovered— Defendant's Costs, when amount claimed—					
	Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
(Or such further sum as the Judge may order.)						
(b) On any interlocutory or other application in Court or Chambers	1 1 0	1 1 0	1 1 0	2 2 0	2 2 0	3 3 0
(c) On examination <i>de bene esse</i> ..	2 2 0	2 2 0	2 2 0	2 2 0	2 2 0	2 2 0
(Or, such further sum as the Judge may order.)						
(d) On trial of defended action ..	3 3 0	5 5 0	7 7 0	10 10 0	10 10 0	15 15 0
(e) Where trial extends over one day (provided the matter occupies two or more hours of that day) for every succeeding day, unless the Judge otherwise orders ..	2 2 0	3 3 0	5 5 0	7 7 0	7 7 0	10 10 0
INSTRUCTIONS—						
To sue or defend ..	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 13 4
For set off or counterclaim ..	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 13 4
INSPECTING DOCUMENTS—						
When in possession of opposite party ..	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
Or per hour ..	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
INTERROGATORIES—						
Instructions for ..	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
Drawing, per folio of 72 words or figures ..	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0
Copying, per folio of 72 words or figures ..	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
LETTERS—						
Letter before action ..	0 2 6	0 2 6	0 2 6	0 3 6	0 3 6	0 5 0
Any necessary letter other than that which is provided for in any allowance for instructions	0 2 6	0 2 6	0 2 6	0 2 6	0 2 6	0 3 6
MILEAGE—						
To be allowed for service of any necessary document other than plaint and annexed summons or any writ or warrant sum paid not exceeding per mile ..	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0

The District Court Rules, 1891 (Queensland, adopted).

SCALE OF COUNSEL'S and SOLICITOR'S FEES—continued.

	FEES and CHARGES allowed on Taxation of:					
	Plaintiff's Costs, when amount recovered— Defendant's Costs, when amount claimed—					
	Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
NOTICES—						
Preparing notice to admit and one copy	0 3 0	0 3 0	0 3 0	0 3 4	0 3 4	0 3 4
If exceeding 4 folios, per folio of 72 words or figures ..	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
Preparing notice to produce ..	0 3 0	0 3 0	0 3 0	0 3 4	0 3 4	0 3 4
If exceeding 4 folios, per folio of 72 words or figures ..	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
Preparing any other notice ..	0 1 6	0 1 6	0 1 6	0 1 6	0 1 6	0 1 6
ORDER—						
Drawing per folio of 72 words or figures	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0	0 1 0
Copying per folio of 72 words or figures	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
Attending issuing	0 3 4	0 3 4	0 3 4	0 6 8	0 6 8	0 6 8
PERUSALS—						
Perusing any necessary letter other than that which is provided for in any allowance for instructions	0 1 6	0 1 6	0 1 6	0 3 4	0 3 4	0 3 4
Perusing any other necessary document other than plaint summons or document which is provided for in any allowance for instruction per folio of 72 words or figures ..	0 0 6	0 0 6	0 0 6	0 0 8	0 0 8	0 0 8
PLAINT—						
Preparing plaint and one copy for commencement of action	0 4 6	0 4 6	0 4 6	0 5 0	0 5 0	0 5 0
Or per folio of 72 words or figures, not exceeding 3 folios	0 1 6	0 1 6	0 1 6	0 1 8	0 1 8	0 1 8
Attending, issuing same and annexed summons	0 3 4	0 3 4	0 6 8	0 6 8	0 6 8	0 6 8
RECEIVING MONEY OUT OF COURT—						
Preparing necessary authority, obtaining signature thereto, and attending Registrar therewith and receiving money ..	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8	0 6 8
SERVICE—						
Of any necessary document, not being plaint and annexed summons, warrant, or writ ..	0 2 6	0 2 6	0 2 6	0 3 4	0 3 4	0 5 0

COURTS—

SCALE of COUNSEL'S and SOLICITOR'S FEES—*continued.*

	FEES and CHARGES allowed on Taxation of: Plaintiff's Costs, when amount recovered— Defendant's Costs, when amount claimed—					
	Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
(The Registrar will not allow more than one charge for service of different documents which should, in his opinion, have been served at the same time.)						
SUBPŒNA—						
Preparing writ of subpœna and præcipe	0 3 6	0 3 6	0 3 6	0 3 6	0 3 6	0 3 6
Attending issuing	0 3 4	0 3 4	0 6 8	0 6 8	0 6 8	0 6 8
SUMMONS—						
Preparing summons to attend at Judge's Chambers ..	0 3 0	0 3 0	0 3 0	0 3 4	0 3 4	0 3 4
Or per folio of 72 words or figures when exceeding 4 folios	0 1 6	0 1 6	0 1 6	0 1 8	0 1 8	0 1 8
TRIAL OF ACTION—						
Instructions for trial of action when defended (where no brief)	1 1 0	2 2 0	3 3 0	5 5 0	7 7 0	10 10 0
Or, in discretion of Registrar, not exceeding	3 3 0	5 5 0	7 7 0	10 10 0	15 15 0	21 10 0
Attendance on trial when case conducted by the solicitor for the party or by a partner or clerk (being a solicitor) of such solicitor or his firm ..	2 2 0	3 3 0	5 5 0	7 7 0	7 7 0	10 10 0
Where trial extends over one day (provided the matter occupies two or more hours of that day), for every succeeding day, unless the Judge otherwise orders	2 2 0	2 2 0	3 3 0	5 5 0	5 5 0	7 7 0
WARRANT OR WRIT—						
Preparing any warrant or writ not herein otherwise provided for and one copy	0 4 6	0 4 6	0 4 6	0 5 0	0 5 0	0 5 0
Attending issuing	0 3 4	0 3 4	0 6 8	0 6 8	0 6 8	0 6 8
WRIT OF FI FA OR EXECUTION—						
Costs to be endorsed on warrant, exclusive of Court or other fees	0 10 6	0 10 6	0 10 6	1 1 0	1 1 0	1 1 0

The District Court Rules, 1891 (Queensland, adopted).

SCALE of COUNSEL'S and SOLICITOR'S FEES—continued.

			FEES and CHARGES allowed on Taxation of:					
			Plaintiff's Costs, when amount recovered—			Defendant's Costs, when amount claimed—		
			Exceeds £10 and does not exceed £30.	Exceeds £30 and does not exceed £50.	Exceeds £50 and does not exceed £100.	Exceeds £100 and does not exceed £150.	Exceeds £150 and does not exceed £200.	Exceeds £200.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
WITNESSES' EXPENSES (13)	PER	DAY—						
Constables .. ..	..	..	0 5 0	0 5 0	0 5 0	0 5 0	0 5 0	0 5 0
Labourers .. ..	..	..	0 7 6	0 7 6	0 7 6	0 7 6	0 7 6	0 7 6
Clerks, Tradesmen, and Farmers			0 10 6	0 10 6	0 10 6	0 10 6	0 10 6	0 10 6
Police Inspectors and Master Tradesmen .. ..	..	..	0 15 0	0 15 0	0 15 0	0 15 0	0 15 0	0 15 0
Gentlemen, Professional Men, Accountants, Auctioneers, and Merchants .. ..	..	..	1 1 0	1 1 0	1 1 0	1 1 0	1 1 0	1 1 0
Females (according to station), 7s. to 15s.								
Witnesses called as experts, £1 ls. to £5 5s.								
(As the Registrar may consider reasonable).								
To any witness living more than one mile from the Court, fare by railway, coach, steamer, or other conveyance, or 1s. per mile one way, in the discretion of the Registrar.								
To any other witness not in- cluded in the above, such allowance per day as the Regi- strar may consider reasonable.								

(13) As to the Scale of Allowances to Witnesses, see the Schedule to the Rules of Civil Procedure, printed on p. 623.

