

- (2.) That adverse claims have been made by the persons summoned, and the steps which have already been taken by the adverse claimants in support of their respective claims.
- (3.) That the person issuing the summons does not collude with either of the claimants, but is ready to bring into Court or dispose of the chattels claimed, or secure the performance of the duty, in such manner as may be ordered.

BILLS OF EXCHANGE.

475. Actions upon bills of exchange may be commenced by writ of summons in the form No. in the Schedule hereto, instead of the form No. in the said Schedule: Provided that every such action shall be commenced within six months after such bill of exchange shall have become due and payable.

476. On filing an affidavit of service of such writ within the jurisdiction of the Court, or an order for leave to proceed on substituted service or without service, the plaintiff may at once sign final judgment for any sum not exceeding the sum indorsed on the writ as principal, together with interest to the date of the judgment at the rate claimed in the writ, or, if no rate be mentioned in the writ, at the rate of eight per cent. per annum, together with such sum as he may be entitled to for costs.

477. Any Judge or Registrar shall, upon application before judgment has been signed, give leave to the defendant to file a statement of defence and defend the action, on the defendant paying into Court the sum indorsed on the writ, or giving security for such sum and the plaintiff's costs of action.

478. Any Judge, on an application under the last preceding rule, may give leave to defend upon affidavits which disclose to his satisfaction a good defence, or such facts as would make it incumbent on the plaintiff to prove consideration, or such other facts as the Judge may deem sufficient to support the application, and on such terms as to security and otherwise as to the Judge may seem fit.

479. If a defendant obtain leave to defend under either of the last two preceding rules, no statement of claim other than the statement of claim indorsed on the writ shall be delivered, and the defendant shall file his statement of defence within such time and at such office of the Court, and the action shall be tried at such time and place, as the Registrar or Judge giving leave to defend shall appoint.

480. In any proceedings under a writ of summons issued under Rule 475, the Court or a Judge may order that any bill of exchange or promissory note sought to be proceeded upon be deposited with the proper officer, and that all proceedings be stayed until the plaintiff has given security for costs.

481. The holders of every dishonoured bill of exchange drawn out of the colony may, in any writ issued under Rule 475, claim the expenses incurred in noting such bill of exchange for non-acceptance or non-payment or otherwise by reason of such dishonour.

482. Subject to the foregoing Rules numbered 475 to 481, both inclusive, the proceedings in any action commenced under Rule 475 shall be regulated as nearly as may be by the other rules of this code.

483. The term "bill of exchange" shall, if not inconsistent with the context, for the purposes of Rules 475 to 482, both inclusive, include a promissory note, a cheque on a banker, and any written contract signed by the party sought to be charged, by virtue of which a sum certain became due upon a day certain, or within a certain time which has elapsed.

ACTIONS ON BONDS.

484. In an action upon a bond conditioned for the performance of any covenants or agreements in any deed or writing, the defendant shall not be allowed to pay money into Court in satisfaction of the action unless he confess judgment, as a security for future performance of such covenants or agreements.

485. At the trial of any action upon a bond conditioned as aforesaid, damages shall be assessed only for such breaches of the said covenants or agreements as shall be set forth in the statement of claim and proved at the trial. If the plaintiff recover damages, he may sign judgment for the full penalty of the bond and the costs to which he is entitled in the action.

486. Any judgment signed under the two last preceding rules shall remain as a security for any damages that may be sustained by reason of any further breach of the covenants or agreements contained in the bond for the penalty of which judgment has been signed, and the plaintiff may from time to time commence an action on such judgment, setting out in his statement of claim such further breaches and claiming damages in respect thereof, and the defendant will not be allowed to set up any defence to such action that he might have set up in answer to the original action.

WRONGFUL DISTRESS.

487. The proceedings in an action for an illegal distress, when the chattels seized have been replevied, shall be the same as in an ordinary action.

488. If the plaintiff in such action be nonsuited at the trial, or the defendant obtain judgment, the defendant may prove the amount due for rent in arrear at the time of distraining, and may sign judgment for such amount, whatever may have been the value of the chattels distrained.

RELATORS.

489. Proceedings by the Attorney-General upon the relation of a private person shall be the same as in an ordinary action, but such relator must be approved of by the Attorney-General, and shall be liable for the costs of the action.

490. If it be made to appear that the relator is not a proper person, proceedings in the action may be stayed till a proper person be named as relator.

491. If the relator or all the relators die the action does not abate, but the Court or Judge may stay proceedings therein until the name of some new relator has been inserted.