

recorded on the case by the Registrar, who is to return the case with such opinion indorsed to the Judge forwarding the case with all convenient speed.

PART VII.

COSTS.

553. In addition to any special powers as to costs hereinbefore conferred by these rules upon the Court or any Judge thereof, it is hereby expressly provided that the costs of and incidental to any action or other proceeding shall be in the discretion of the Court, subject, however, to any special provision as to costs contained in any statute or in these rules; but, when no order is made by the Court or a Judge, the right to costs in the several cases mentioned in the next eleven rules shall be regulated by the provisions of such rules respectively.

554. The successful party on the trial of any action or issue shall be entitled to the costs of the trial.

555. If the plaintiff in any action for the recovery of damages shall recover less than 40s. such plaintiff shall not be entitled to any costs whatever, unless the Judge shall at the trial certify upon the statement of claim that the action was brought to try a right other than the mere right to recover damages in the action, or that costs should be allowed.

556. The last preceding rule shall not operate to deprive any plaintiff of costs in any action for a trespass over any lands, or for entering into any dwelling-house or premises in respect of which any notice not to trespass or enter thereon or therein shall have been previously served by or on behalf of the owner or the occupier thereof on the defendant, or left at his last reputed or known place of residence or abode.

557. If any plaintiff in an action commenced in the Supreme Court recover less than the sum of £50, or the value of any chattels recovered is assessed at less than £50, and the action was one that might have been brought in a local Court, the plaintiff shall not be entitled to any greater costs than he would have recovered in the local Court, except in case of judgment by confession or by default, or unless the Judge before whom the action was tried shall certify that the case was a proper one to bring in the Supreme Court.

558. In all actions upon any judgment recovered in any Court, except judgments on bonds, the plaintiff shall not be entitled to any costs.

559. If there be several defendants and the plaintiff have a verdict against them, each of them is liable to the plaintiff for the entire costs, even although they defend separately.

560. Plaintiffs suing in a representative character shall be liable to pay costs to the defendant in case of a nonsuit or of a judgment for the defendant.

561. When the Judge at the trial of any action has made an order allowing an unsuccessful party costs under any rule herein contained, the amount of such costs shall be ascertained by the proper officer and deducted from the costs (if any) allowed to the successful party.

562. When the statement of claim contains more than one cause of action, and the plaintiff succeeds on one or more causes of action, and the defendant succeeds on another or others, costs shall be allowed to the plaintiff on the cause or causes of action on which he succeeds, and to the defendant on the cause or causes of action on which he succeeds, in the same manner as if separate actions had been brought on the cause or causes of action on which each party respectively has succeeded.

563. When the plaintiff succeeds in his action, and the defendant succeeds in a counter claim, costs shall be awarded as if each party respectively had succeeded in an independent action.

564. When several defendants defend an action separately, costs may be disallowed to all of such defendants except one, or to any of such defendants, if it appear that the defendants or any of the defendants might have joined in their defence.

565. Costs (when allowed) shall be regulated and paid according to scale of costs contained in the Schedule hereto.

566. Any party entitled to costs subject to taxation may obtain from the Registrar an appointment for taxation of such costs. A copy of the appointment shall be served on the opposite party at least two clear days before the day appointed for such taxation.

567. The first appointment made by the Registrar is peremptory, and he will proceed thereon *ex parte* upon proof that due notice has been given to the opposite party, unless sufficient cause shall appear for postponement.

568. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person or by solicitor.

569. If extra expenses which do not appear on the face of the proceedings are claimed, such as witnesses' expenses, fees to counsel, attendances, &c., an affidavit must be made as to such extra expenses.

570. The Registrar is the sole judge of all questions of fact which may arise on taxation, and his decision thereon is final.

571. But the Court may, after the taxation is made, upon motion by any party dissatisfied therewith, where it shall appear to have been made upon a wrong principle, refer it back to the Registrar, with directions to review his report and make such alterations in it as may be requisite.

572. In the taxation of costs the Registrars shall, so far as the scale in the Schedule does not extend, guide themselves by the scale of costs heretofore in use, as far as the same may be consistent with these rules.

SECURITY FOR COSTS.

573. If the sole plaintiff or all the plaintiffs in an action be resident out of the colony, the Court or a Judge may, on the application of the defendant, order security to be given for the costs of the action to the satisfaction of the proper officer, and may order proceedings in the action to be stayed until such security has been given. The defendant must apply promptly after the fact of such residence out of the colony has come to his knowledge.