

144. The plaintiff shall, within twenty-four hours after receipt of notice of such payment, if the amount paid in be less than the amount claimed in the action, give the defendant or his solicitor a notice if he accepts the sum paid into Court.

145. If the relief claimed in any action be possession of land, the defendant may, at any time before trial, deliver, or offer to deliver, possession of the land claimed, or any part thereof.

146. If the relief claimed in any action be possession of chattels, the defendant may, before trial, deliver, or offer to deliver, possession of the chattels claimed, or any of them.

147. If the defendant pay into Court the full amount claimed, or deliver all the lands or all the chattels claimed, or admit the plaintiff's right to the relief claimed, or if the plaintiff accepts as satisfaction the sum paid into Court, or the land or goods delivered or offered to be delivered, or the relief offered by the defendant, the plaintiff shall be entitled to the costs of the action up to the date of such payment or delivery, or of filing such memorandum, as the case may be, and may sign judgment for such costs, and for any land or chattels not delivered or given in pursuance of such offer.

148. If the plaintiff do not accept as satisfaction any payment or offer of delivery under the foregoing rules, and shall fail at the trial to recover a greater sum of money than the sum paid into Court, or to recover other land or chattels than those delivered or offered to be delivered, or if the Judge presiding at the trial shall be of opinion that the relief offered was adequate relief, though not the precise relief the plaintiff may be awarded by the judgment of the Court, the Judge trying the action may allow the defendant his costs of the action subsequently to such payment or offer of delivery, as the case may be.

149. The defendant may proceed separately under the foregoing rules of this chapter in respect of each or any cause of action, and file a statement of defence to any cause of action in respect of which he does not so proceed.

BY DISCONTINUANCE.

150. The plaintiff may, at any time before trial, discontinue his action, either wholly or as to any cause or part of a cause of action, by filing in the office of the Court in which the statement of defence is to be filed a memorandum in the Form No. in the Schedule hereto.

151. A copy of such memorandum shall be served upon the defendant by the plaintiff.

152. A plaintiff so discontinuing shall pay to the defendant the costs to which he is entitled in respect of such discontinuance, and the defendant may sign judgment for such costs.

153. The discontinuance of an action shall not be a defence to any subsequent action on the cause of action or part of a cause of action discontinued.

BY STAY OF PROCEEDINGS.

154. If an action be brought pending a reference which it has been agreed shall operate as a stay of proceedings, or otherwise contrary to good faith, the Court or a Judge may order the action to be stayed, whether such agreement were made under the authority of Court or not.

BY TRIAL.

155. All actions shall be tried at the place and day mentioned in the summons, or at some adjournment thereof.

156. The Court or Judge thereof may before trial, or the Judge presiding at the trial may during the trial, if it shall appear expedient in the interests of justice so to do, postpone or adjourn the trial for such time and upon such terms (if any) as the Court or such Judge may think fit.

157. Actions shall be tried before a Judge of the Court.

158. If in any action tried before a Judge the existence of a record of the Court is in dispute, the existence of such record shall be determined by the Judge presiding at the trial.

159. The cause being called on, if neither party appear, the Judge shall order it to be struck out, but may order it to be reinstated at the bottom of the list for that day, on good cause shown by either party and subject to such terms as the Judge may think just.

160. If the plaintiff appear and the defendant do not appear, the plaintiff shall prove his cause of action so far as the burden of proof lies upon him.

161. If the defendant appear but the plaintiff do not appear, the defendant, if he do not admit the claim, shall be entitled to judgment dismissing the action. If the defendant have a counter claim, he may prove such counter claim, so far as the burden of proof lies on him.

162. Any judgment obtained when one party does not appear at the trial may be set aside or varied by the Court or Judge upon such terms as may seem fit, upon application within ten days after the trial.

163. If both the plaintiff and defendant appear, the plaintiff shall state his case and adduce his evidence in support thereof. When the plaintiff has closed his case, the defendant shall state his case and adduce his evidence in support thereof.

164. The Judge presiding at the trial may, however, order that the defendant shall state his case and adduce his evidence first, if the burden of proof appear to lie on him.

165. After the evidence has been taken, the party who has not the right to begin may address the Court generally on the case, and after him the other party may address the Court in reply; but if the party who has not the right to begin do not adduce evidence in support of his case the opposite party shall address the Court on the case, and after him the party not having the right to begin shall address the Court in reply.

166. The Court shall have power, either before, at, or after the trial of any action, to amend all defects and errors in the proceedings in the action, whether there be anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not.

167. All such amendments shall be made with or without costs, and upon such terms as to the Court may seem fit, and all amendments shall be made that may be necessary for the purpose of determining the real controversy between the parties in the action.