



SUPPLEMENT

TO THE

NEW SOUTH WALES

GOVERNMENT GAZETTE.

OF WEDNESDAY, MAY 30, 1838.

Published by Authority.

SATURDAY, JUNE 2, 1838.

THE following Rules and Orders are published for the information of the Public :—
SUPREME COURT.

REGULÆ GENERALES.

26th May, 1838.

It is ordered that the following days be observed as Holidays in the Supreme Court and the Offices thereof, viz :—

January 1st, New Year's Day,
January 26th, Foundation of the Colony,
The Annunciation of the Blessed Virgin,
Good Friday and the following Saturday,
Easter Monday,
Ascension Day,
Her Majesty's Birth Day,
Whit Monday,
December 25th, Christmas Day, and
The day following.

RULE 17.—That the following form of Summons be used in all Actions that shall hereafter be commenced on the Common Law side of this Court, instead of the form prescribed by the 17th Rule of this Court, viz :—

No.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To our Sheriff of New South Wales, or his lawful Deputy ;

GREETING.—

We Command you to Summon

to appear before Our Supreme Court of New

South Wales, at Sydney, on the Day of _____ or within _____ days thence next ensuing, then and there to answer

in _____ as will be more particularly set forth in a Declaration to be then and there exhibited against _____ and have you then there this Writ.

Witness the Honorable
Esquire, Our Chief Justice of Our said Court, at Sydney, the
Day of _____ in the
Year of Our Reign.
Damages, £

Chief Clerk of the Supreme Court.

To

You are requested to take Notice, that unless you plead to the Declaration in this Cause, on the _____ day of _____ the Court will on the _____ day of _____, or as soon after as may be convenient, proceed to enquire into and assess Damages in this Action, (or in Actions on Bills of Exchange or Promissory Notes) "the Plaintiff will be at liberty to proceed to compute Principal and Interest on the Bill of Exchange or Promissory Note for which this Action is brought, and to tax his Costs, sign Final Judgment, and issue Execution thereon," (or in Actions on Bonds where Judgment is final in the first instance) "the Plaintiff will be at liberty to tax his Costs, sign Final Judgment, and issue Execution thereon." Dated, &c.

RULE 21.—That the twenty-first Rule of this Court be rescinded, and the following substituted in its stead:—That all Writs of Summons or other process to compel the appearance of any person may be made returnable at any time; but if the Defendant resides in the Town of Sydney, or within eight miles thereof, he shall have four days after its return, exclusive of the return day, to appear and put in bail thereto; and if he resides above eight miles and not exceeding twenty-five miles, six days; if above twenty-five miles and not exceeding fifty miles, eight days; if above fifty miles and not exceeding one hundred miles, ten days; and if above one hundred miles, fourteen days.

RULE 26.—That the twenty-sixth Rule of this Court be rescinded, and the following substituted in its stead:—That in all cases where a Defendant shall put in special bail he shall cause notice containing the names and additions of such bail to be forthwith served on the Plaintiff's Attorney, and if the Plaintiff shall be desirous of excepting thereto, he must enter his exception in the office of the Chief Clerk within four days after the day limited for putting in the said bail, and shall, at the same time, serve a notice of such exception on the Defendant's Attorney, and thereupon the Defendant shall, on the fourth day after such exception shall be so entered, justify such bail (or added bail if the same shall have been necessary) before a Judge of the said Court at Chambers, or a Commissioner thereof for taking bail, of which two days notice shall be given to the Plaintiff's Attorney: Provided that notice of more bail than two shall not be deemed regular unless by order of a Judge first obtained: Provided also, that if the bail piece shall be accompanied with an affidavit of each of the bail according to the form set forth in the Appendix to the Rules of this Court, and if the Plaintiff afterwards except to such bail, he shall, if such bail are allowed, pay the costs of justification, and if such bail are rejected, the Defendant shall pay the costs of opposition, unless the Court, or a Judge thereof, shall otherwise order. (Vide ADDENDA p. 32.)

RULE 28.—That the following form of Notice be hereafter used instead of the former prescribed by the 28th Rule of this Court, viz:—

Take Notice that the within is a true Copy of a Declaration filed against you, and that unless you plead thereto on the day of , the Court will on the day of or as soon after as may be convenient, proceed to inquire into and assess damages thereon, [Or in Actions on Bills of Exchange or Promissory Notes] "the Plaintiff will be at liberty to proceed to compute principal and interest on the Bill of Exchange or Promissory Note for which this Action is brought, and to tax his costs, sign final judgment, and issue execution thereon, [or on Bonds on which judgment is final in the first instance] the Plaintiff will be at liberty to tax his costs, sign final judgment, and issue execution thereon." Dated, &c.

E. F., Plaintiff's Attorney.

RULE 30.—That so much of the 30th Rule of this Court as relates to the filing of the Plea demurrer or defence within ten days after the return day of the writ be rescinded, and that the said Plea demurrer or defence be filed within four days after the day appointed for appearing or putting in bail.

RULE 32.—That so much of the thirty-second rule of this Court as relates to the Plaintiff filing his Replication within fourteen days after the return day of the writ, and so much of the said Rules as relates to the Defendant filing his rejoinder within sixteen days after the return of the said writ be rescinded, and that the said Replication be filed within four days after filing the Defendant's plea, and the Rejoinder within the like number of days after filing the Plaintiff's replication.

RULE 43.—That the 43rd Rule of this Court be rescinded and the following substituted in its place:—"That in all Actions upon Bills of Exchange and Promissory Notes, where any Defendant after being duly served with process or arrested thereon, as the case may be, shall fail to appear or put in bail thereto according to the exigency of such process, and file his Plea demurrer or defence within the time limited, the Plaintiff or his Attorney may apply to the Chief Clerk or other officer of the Court for an appointment to compute principal and interest on the said Bill of Exchange or Promissory Note, upon which the said action is brought, and the said Chief Clerk or other officer shall at the time appointed compute principal and interest thereon, and upon the amount being so ascertained as aforesaid, the Plaintiff shall be at liberty to tax his costs, sign final judgment, and sue out execution thereon; and no such Cause shall be set down for assessment of damages; And in all other cases where the Defendant shall neglect to appear and plead within the time limited, the Plaintiff may set down his Cause, and damages may be thereupon assessed on the third day of Term.

RULE 46.—That the Proviso to the 46th Rule of this Court be rescinded.

RULE 67.—That the 67th Rule of this Court be rescinded, and the following substituted in its stead:—That all Actions against an Attorney or Solicitor practising in this Court, shall be commenced by filing in the office of the Chief Clerk a Declaration in the usual form; And it shall not be necessary to issue any process to compel the appearance of any Defendant thereto, but he shall appear and plead to such Declaration, and the Cause shall proceed in like manner as in other cases, and the said declaration may be filed at any time; And the Plaintiff in such Action shall, on the day of filing such Declaration, serve notice thereof upon the Defendant in the form or to the effect following:—

In the Supreme Court)
of New South Wales.

A. B., Plaintiff,
and

C. D., Gent., one, &c., Defendant.

"Sir,—Take notice that a Declaration was

this day filed against you in the office of the Chief Clerk of this Court, and unless you appear within days from the date hereof, and plead thereto on the day of the Court will on the day of or as soon after as may be convenient, proceed to enquire into and assess Damages in this Action [or in actions on Bills of Exchange or Promissory Notes] the Plaintiff will be at liberty to proceed to compute principal and interest on the Bill of Exchange or Promissory

Note for which this Action is brought, and to tax his costs, sign final judgment, and issue execution thereon [or in Actions on Bonds in which the judgment is final in the first instance] the Plaintiff will be at liberty to tax his costs, sign final judgment, and issue execution thereon. Dated, &c.

E. F., *Plaintiff's Attorney.*"

JAMES DOWLING, C. J.

W. W. BURTON.

JOHN WALPOLE WILLIS.

Signed,
