"(*a*) the notice has been served upon such party fifteen clear days at least before the relevant return day;";

(*c*) in Rule 12, the words "and the date and description of all documents used in evidence at the hearing" shall be omitted.

County Court Rules (Northern Ireland), 1957

1957. No. 63 **[C]**

We, the undersigned members of the County Court Rules Committee duly appointed under sub-section (4) of section eighteen of the County Courts Act (Northern Ireland), 1955, do by virtue of the powers vested in us in this behalf hereby—

(*a*) make the several Rules in Part I of the Schedule set forth as Rules to be in force in proceedings in the County Courts under the provisions of the said Act in that Part respectively specified and such other statutory provision as therein appears, and direct that the Forms in the Appendix to that Part set forth shall have effect for the purposes of those Rules respectively

(*b*) make the amendment in Part II of the Schedule set forth in the Rules made the 12th day of July, 1858, under Section 64 of the Probates and Letters of Administration Act (Ireland), 1857,

(*c*) make the amendments (including additions) in Part III of the Schedule set forth in the County Courts (Ireland) Orders, 1890,

(*d*) make the amendment in Part IV of the Schedule set forth in the County Court (Proceedings and Actions before the Registrar for Belfast) Rules, 1948, and

(*e*) make the amendment in Part V of the Schedule set forth in the Marriages of Minors (Northern Ireland) County Court Rules, 1954,

and do hereby certify the same under our hands and submit them to the Lord Chief Justice accordingly.

Bernard J. Fox
Wm. Johnson
J. G. Agnew
Charles Stewart
Turlough O'Donnell
James J. Napier
John L. Pinkerton
T. F. Glass
J. F. Caldwell

I approve these Rules which shall come into force on the first day of May, 1957.

Dated the 6th day of April, 1957.

MacDermott,
Lord Chief Justice of Northern Ireland.

SCHEDULE

PART I

RULES FOR THE PURPOSES OF CERTAIN PROVISIONS OF THE COUNTY COURTS ACT (NORTHERN IRELAND), 1955, AND CERTAIN OTHER STATUTORY PROVISIONS

1. Construction of Deeds, Wills, etc.

Rules made under Section 10 of the County Court Amendment (Ireland) Act, 1882, as amended by Section 6 of the County Courts Act (Northern Ireland), 1955

1. An application by any person claiming to be interested under a deed, will or other written instrument, for the determination of any question of construction arising thereunder and for a declaration of the rights of any person interested shall be brought by equity civil bill.

2. The civil bill may be in the form A in the Appendix and, subject to the provisions of Rule 3, shall be served on every person appearing to the plaintiff to have an interest in the question sought to be determined.

3. The Judge at the hearing shall have power—

(*a*) to dispense with service of the civil bill on such persons as he may think fit;

(*b*) to appoint some one or more than one person to represent a class;

(*c*) to direct service of the civil bill on any person not served therewith and appearing to him to have an interest in the said question.

4. The application shall be supported by such evidence as the Judge may require.

5. Where not otherwise expressly provided by these Rules the rules and practice for the time being in force in the county court applicable to civil bills in equity suits shall apply to all such applications as aforesaid.

2. Third Party Procedure

Rules made under Section 10 of the County Courts Act (Northern Ireland), 1955

1.—(1) Where a defendant claims to be entitled to any contribution, indemnity or other relief over against any person not a party to the action (in these Rules referred to as a "third party"), he may, not later than ten clear days before the return day, serve on the third party in like manner as a civil bill a third party notice in the form B in the Appendix, together with a copy of the civil bill in the action.

(2) A third party notice may be served at any place in Northern Ireland.

2. When the third party notice has been served under Rule 1 a copy thereof shall forthwith be delivered to the plaintiff by

post or otherwise and a copy thereof lodged with the Clerk of the Crown and Peace.

3. Subject to any order of the Judge, the notice shall have effect as if it were a civil bill served by the defendant on the third party.

4. The Judge at the trial—

(*a*) may give such directions or make such order as he may think appropriate for determining the issues between the parties; and

(*b*) may pronounce such decree or judgment as the nature of the case may require.

5. The foregoing Rules and Rule 2 of Order VIII of the County Courts (Ireland) Orders, 1890, shall apply *mutatis mutandis* where—

(*a*) a defendant claims to be entitled to any contribution, indemnity or other relief over against any other defendant: provided that a third party notice served on a defendant need not be accompanied by a copy of the civil bill;

(*b*) a third party claims to be entitled to any contribution indemnity or other relief over against another person not a party to the action (who may be known as a "fourth party"); and

(*c*) a fourth party or any subsequent party in like case makes a like claim against a person not a party to the action.

3. Judgment Mortgage

Rules made under Section 13 of the County Courts Act (Northern Ireland), 1955

1. An affidavit for the purpose of registering as a mortgage any such judgment, decree or order as is referred to in section 13 of the County Courts Act (Northern Ireland), 1955 (in these Rules referred to as "the decree"), shall be filed in the office of the Clerk of the Crown and Peace for the county or county borough in which the lands, tenements or hereditaments affected are situate.

2. Where the lands, tenements or hereditaments affected—

(*a*) are situate within the jurisdiction of the court by which the decree was given or made, the Clerk of the Crown and Peace concerned shall endorse on the copy affidavit referred to in Rule 4 a certificate as to the amount—

(i) of money and costs awarded by the decree; and

(ii) of any set-off or counterclaim allowed;

(*b*) are not so situate, the Clerk of the Crown and Peace for the county or county borough in which the decree was given or made shall, at the request of the party

desirous of filing the affidavit, issue to him a certificate in the form C in the Appendix, which certificate shall be filed with the affidavit.

3. The Clerk of the Crown and Peace shall maintain an index of affidavits filed in his office under these Rules, and that index and all such affidavits shall be open to inspection during office hours.

4. The solicitor or party filing an affidavit under these Rules shall lodge with the Clerk of the Crown and Peace a true copy thereof, to be compared in the office of and certified by the Clerk of the Crown and Peace.

5. The said solicitor or party shall thereupon proceed in like manner as if the affidavit were a judgment mortgage affidavit filed in the Central Office of the Supreme Court.

6. The Clerk of the Crown and Peace in whose office an affidavit has been filed under Rule 1, where he is satisfied that the decree therein referred to has been paid or satisfied, shall enter a memorandum to that effect in the index referred to in Rule 3 and shall on request issue a certificate in the form D in the Appendix, which shall be sealed or stamped with the seal of the court and shall thereupon have the like effect as if it were a certificate of satisfaction issued out of the Central Office of the Supreme Court.

4. Extension of Decrees, etc.

Rules made under Section 14 of the County Courts Act (Northern Ireland), 1955

1. Every application to extend a decree or dismiss in pursuance of section 14 of the County Courts Act (Northern Ireland), 1955 (in these Rules referred to as an "application") shall be made to the Judge in open court upon notice to be served upon the person against whom it is sought to extend such decree or dismiss.

2. Every such notice shall—

(*a*) set forth particulars of the decree or dismiss;

(*b*) set forth the amount due on foot thereof after all just credits and allowances; and

(*c*) be subject to the like requirements as an ordinary civil bill with respect to the time for and mode of service, and to entry, hearing and determination.

3. The original decree or dismiss (or a duplicate thereof) shall be lodged with the notice in the office of the Clerk of the Crown and Peace.

4.—(1) At the hearing of an application the amount due on foot of the decree or dismiss may be proved either by oral evidence or by affidavit in form E in the Appendix.

(2) An affidavit under paragraph (1) shall be made by the party who has, or by one of the parties who have, obtained the

decree or dismiss; but where such party is unable to make such affidavit, the Court may accept an affidavit made on his behalf by any person who in the opinion of the Court is competent to depose to the matters stated. Such persons may include—

(*a*) any person in the employment of the plaintiff or defendant (as the case may be) having personal knowledge of the matters stated, but not otherwise;

(*b*) in the case of a company, any such person as is mentioned in Rule 9 of Order XXXVII of the County Courts (Ireland) Orders, 1890; and

(*c*) a legal personal representative of any deceased plaintiff or defendant.

(3) Such affidavit shall be sworn within the seven days next preceding the entry day.

(4) The solicitor for the plaintiff or defendant, as the case may be, shall at the foot of such affidavit certify that to the best of his knowledge and belief the sum claimed therein is still unpaid.

(5) Every such affidavit shall be filed in the office of the Clerk of the Crown and Peace not later than the return day.

5. The Clerk of the Crown and Peace shall enter every application in the ordinary civil bill book for hearing and shall record the order of the Judge thereon. Where a decree or dismiss is extended he shall endorse thereon the fact and date of such extension, and shall sign such endorsement.

6. An order for extension may be in form F in the Appendix.

7. No civil bill process shall be brought on any decree or dismiss which might be extended under the County Courts Act (Northern Ireland), 1955.

8. The Provisional Rules of 1st June, 1909, and 12th July, 1910, respectively, are hereby revoked.

5. Enforcement of Decrees, etc., throughout Northern Ireland

Rule made under Section 15 of the County Courts Act (Northern Ireland), 1955

1. Where any person liable on foot of a decree or dismiss of any county court—

(*a*) resides or has a place of business in some place outside the jurisdiction of that court; or

(*b*) has or acquires in any place outside that jurisdiction any property which may be taken in execution;

the party entitled to execution on foot of such decree or dismiss may transmit it to the under-sheriff of the county in which any such place is situate together with such a certificate as is provided by section 12 of the Civil Bill Courts Procedure Amendment Act (Ireland), 1864; and it shall be the duty of that under-sheriff to proceed to execution accordingly.