

defendant wish to have the action tried by a jury, he must, within five days after the service of the Summons upon him, give to the Clerk a notice requesting a jury, and pay the Clerk the fees on such proceeding.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A. J. F.
(Continued from page 24.)

THE WARRANT TO APPREHEND.—(Continued.)

Every Warrant should shew on the face of it that the Magistrates issuing it has jurisdiction. Sec. 3 of the 16 Vic. c. 178, points out the requirements of the Warrant, and contains ample directions as to when and where it may be executed, and for its being backed, the section enacts:—

That every such warrant to apprehend a defendant, that he may answer to such information or complaint as aforesaid, shall be under the hand and seal, or hands and seals of the Justice or Justices issuing the same, and may be directed to all or any of the constables or other Peace officers of the Territorial Division, within which the same is to be executed, or to such constable, and all other constables within the Territorial Division within which the Justice or Justices issuing such warrant, hath or have jurisdiction; or generally to all constables within such last-mentioned Territorial Division: and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued: and it shall order the constable or other Peace officer to whom it is directed, to apprehend the said defendant, and to bring him before one or more Justice or Justices of the Peace, as the case may require, of the same Territorial Division, to answer to the said information or complaint, and to be further dealt with according to law; and that it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed: and such warrant may be executed by apprehending the defendant at any place within the Territorial Division, within which the Justices issuing the same shall have jurisdiction, or in case of fresh pursuit, at any place in the next adjoining Territorial Division, within seven miles of the border of such first-mentioned Territorial Division, without having such warrant backed, as hereafter mentioned: and in all cases in which such Warrant shall be directed, all constables or Peace-officers within the Territorial Division within which the Justice or Justices issuing the same shall have jurisdiction, it shall be lawful for any constable or Peace-officer, for any place within the limits of the jurisdiction for which such Justice or Justices shall have acted when he or they granted such Warrant, to execute such Warrant in like manner as if such Warrant were directed specially to such constable by name, and notwithstanding that the place in which such Warrant shall be executed shall not be within the place for which he shall be such constable or Peace-officer: and if the person against whom any such warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it was issued; or if he shall escape, go into, reside, or be, or be supposed or suspected to be, in any place within this Province, whether in Upper or Lower Canada, out of the jurisdiction of the Justice or Justices issuing the Warrant, any Justice of the Peace within whose jurisdiction such person shall be, or be suspected to be as aforesaid, upon proof alone

upon oath of the hand-writing of the Justice or Justices issuing the Warrant, may make an indorsement upon it, signed with his name, authorizing the execution of the Warrant within his jurisdiction; and such indorsement shall be a sufficient authority to the person bringing the Warrant, and to all other persons to whom it was originally directed, and to all constables or other Peace-officers of the Territorial Division where the indorsement is made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the Warrant, or some other Justice having the same jurisdiction.

This section provides that the Warrant should name or otherwise describe the defendant. Whenever the name is known it should be accurately stated in the Warrant; but if the name of the party be unknown, the warrant may be issued against him by the best description the nature of the case will allow, as, "*the body of a man whose name is unknown but whose person is well known, and who is employed as a teamster, &c., and who wears.*" &c.^[2]

It is evidently contemplated by the section that Warrants should be directed to authorised officers; and it is better, on every ground, that such persons only should be employed. Constables are bound to execute their lawful Warrants; and publicly known as Peace-officers, and possessing a general authority, they can perform the duty more efficiently and with greater safety.

No objections lie for want of form in the Warrant, but if the defendant has been deceived by any variance in it, the hearing must be postponed, as we will see more particularly when the proceedings at the Hearing are considered—forms of Warrants in the first instance, and after Summons, are subjoined.^[3]

[2] 3 Chitty's Crim. Law, 39.
[3] The following forms are taken from the schedule to the Act 16 Vic. c. 178.
Warrant in the first instance.

Province of Canada, }
(County or United Counties, }
or as the case may be) of }
To all or any of the Constables or other Peace Officers in the said (County or }
United Counties, or as the case may be) of }
Whereas information hath this day been laid before the undersigned, (one) of }
Her Majesty's Justices of the Peace in and for the said (County or United }
Counties, or as the case may be) of } for that A. B. (here state shortly }
the matter of information): and oath being now made before me substantiating }
the matter of such information: There are therefore to command you, in Her }
Majesty's name, forthwith to apprehend the said A. B. and to bring him before }
(me) or some one or more of Her Majesty's Justices of the Peace in and for the }
said (County or United Counties, or as the case may be.) to answer to the said }
information, and to be further dealt with according to law.
Given under my Hand and Seal, this _____ day of _____, in the }
year of our Lord _____, at _____, in the (County, or as the case may }
be) aforesaid. }
J. S. [L.S.]

Warrant when the Summons is disobeyed.
Province of Canada, }
(County or United Counties, }
or as the case may be) of }
To all or any of the Constables or other Peace Officers in the (County or United }
Counties, or as the case may be) of }
Whereas on _____ last past, information was laid (or complaint was }
made (before _____, (one) of Her Majesty's Justices of the Peace in }
and for the said County or United Counties, or as the case may be) of

[1] In re. Fearless, 1 Ad & E (N.S.) 173.