

shall have "been seized or taken" for the benefit of the plt.; and it is provided that "the plt. may sue in the name of the dft. or in the name of any person in whose name the dft. might have sued" for the recovery of the sum or sums made payable thereby: the action therefore should be instituted by the Creditor (who must pay or secure all costs that may attend the proceeding) and not by the Bailiff. It is the Bailiff's duty to return the Note seized into Court, or to allow the plt. to take a copy that he may enter a suit upon it when the time of payment shall have arrived. The more convenient practice, it seems to us, would be for the Bailiff to hand over unmatured Notes seized to the Clerk—and it would be proper for him, when he can conveniently do so, to notify the maker of the Note, or other party responsible on a money security, that the same has been seized by him under execution.

When the creditor (the plt.) sues on the Note the Clerk will find it to be his duty under the 19th Rule of Practice to add a notice to the Summons cautioning the dft. that the creditor only has power to discharge the suit. To this notice the defendant's attention should be drawn by the Bailiff—especially when the party served is an illiterate person—to guard him against paying the amount to the party in whose name the suit is brought (the original dft.) or settling the suit in any way with him.

SUITORS.

FORM AND REQUISITES OF CLAIM AND DEMAND. (Continued from page 161.)

Suing in special character.—If the plt. sues or the dft. is sued in a particular character, for example as executor or administrator, it should be shown in the particulars by adding after the plaintiff's or defendant's name the words "Executor" (or "Administrator") "of ——— deceased."

Statement of Cause of Action.—The claim or demand should in every case admitting thereof show the particulars in detail, and the sum claimed. Thus if the action be on a "Store Bill" or tradesman's bill, the items of the account are given; or if the account in detail can be proved to have been already rendered, it is usually sufficient to say, "To amount of account rendered £——." If the action be on a Promissory Note, "Stock Note," "Labour Note," or any other written contract, it is to be copied, or the substance of the document set down in writing—in practice it is usual to hand the original Note, &c., to the Clerk, who makes the copy, &c.

Where the action does not admit of detailed particulars, there must be a statement of the facts constituting the cause of action, in ordinary and concise language, and the sum of money claimed

in respect thereto: thus if the action be for *assault* the particulars may be as follows:—

"A. B. of ———, states that C. D. of ———, did on the ——— day of ———, A.D. 18 —, at the Township of ———, unlawfully "assault and beat the said A. B." The said A. B. hath sustained damages to the amount of £——, and claims the same of the said C. D." A. B.

Or if the action be for *taking property*, instead of the above between the asterisks, ("—") say:—

"Take and convert one cow, (or as the case may be) the property of the said A. B."

Sufficient has been said to give a general idea of the way in which the particulars are to be made out. Any man of ordinary intelligence, keeping in mind what was said in our last number under this head—that a main object of the particulars is to inform the dft. of what will be attempted to be proved against him at the hearing—will not find any difficulty in framing the particulars: and any little mistake not calculated to deceive or mislead the dft. the Judge will rectify, if objected to, at the hearing.

Leaving Particulars for Suit.—When the claim or demand is made out by the plt. it should be delivered to the Clerk at his office, and the necessary Fees paid on it, as soon as possible, for if left till nearly the last day for service the Bailiff may be out attending to his duties, or the dft. may happen to be from home at the time: the consequence is that the dft. is not served, and thus the needless expense of a second Summons must be incurred. If the plt. desires his case to be tried by a Jury, the proper time to notify the Clerk of his wish is when he enters the claim, and he must then deposit with him the Bailiff's fees and other charges on summoning a Jury.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A. J. P.

(Continued from page 161.)

MODE OF COMPELLING THE APPEARANCE OF PARTIES.

The information or complaint having been properly laid, and it being determined to proceed by way of summary conviction, the next step necessary to be considered is, in what way the defendant's appearance before the Magistrates is to be secured to answer the charges against him: it is effected by the Magistrate issuing process for the purpose.

Process is of two kinds, viz., a *Summons* and a *Warrant*, and either may be used in the first instance according to the circumstances and nature of the case. In many Statutes the particular process to be used, whether summons or warrant, is