

copies of the declaration, of which one shall be served and another filed with an affidavit of service, as in non-bailable cases.

IX. (*f*) In all cases when a declaration shall be delivered not accompanied by particulars of the plaintiff's demand, the defendant may serve the plaintiff, his attorney or agent, as the case may be, with a demand of particulars, and no order of the court or a Judge for the delivery of particulars shall in any case be required, and the service of such demand shall operate as a stay of proceedings, until particulars shall be delivered, after the delivery of which, the defendant shall have the same time to plead as he had at the time of such demand being served.

Provided always, that the plaintiff shall in no case be

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or left for him with the gaoler or turnkey, another to be annexed to the original affidavit of such delivery, and filed in the Crown office, and a third to be annexed to an office copy of the affidavit, and a demand of plea being then given, in default of a plea judgment might have been signed.

(*f*) See rule 7 above. There seems to be an inconsistency between this rule and the seventh rule. In the seventh rule it is provided that in actions of *indebitatus assumpsit*, or in debt or simple contract, unless the plaintiff shall deliver particulars with his declaration, that he shall not be allowed any costs on their delivery afterwards under summons and order of a judge, but this rule makes a demand sufficient wherever the plaintiff does not deliver particulars of his demand with his declaration, and makes such demand operate as a stay of proceedings from the time of service, and also renders it necessary for the plaintiff to apply to the court or a judge to proceed without furnishing particulars, where they have been demanded, if the action be of such a nature, that an order for particulars would not have heretofore been granted. It would seem, then, by the operation of this rule, that a summons and order for particulars will not in any case be necessary after service of declaration, and will require only to be taken out in cases where the defendant desires to obtain particulars before declaration, R. 7, T. 3 & 4 Will. IV. having ordered, that a summons for particulars, and order thereupon, may be obtained by a defendant before appearance, and may be made if the judge thinks fit, without the production of any affidavit, and the new rules applying only to a demand of particulars after declaration.