

or to avoid the service of a Summons, or keeps himself concealed therein with the like intent.

3. Where he is not resident in Upper Canada but has property therein and the action arises on contract, and the Court has jurisdiction of the subject of the action.

4. Where the subject of the action is real or personal property in Upper Canada and the Defendant has or claims a lien or interest, actual or contingent therein, or the relief demanded consist wholly or partly in excluding the Defendant from any interest or lien therein.

5. Where the action is for any other cause, in the cases prescribed by law.

6. The Order must direct the publication to be made in two newspapers to be designated as most likely to give notice to the person to be served and for such length of time as may be deemed reasonable, not less than once a week for six weeks. In case of publication the Court or Judge must also direct a copy of the Summons and complaint to be forthwith deposited in the Post Office directed to the person to be served at his place of residence, unless it appear that such residence is neither known to the party making the application, nor can with reasonable diligence be ascertained by him. When publication is ordered, personal service of a copy of the Summons and complaint out of Upper Canada is equivalent to publication and deposit in the Post Office.

7. The Defendant against whom publication is ordered, or his representatives, on application and sufficient cause shewn at any time before judgment, must be allowed to defend the action; and the Defendant against whom publication is ordered or his representatives may in like manner upon good and reasonable cause shewn, be allowed to defend after judgment, or at any time within one year after notice thereof and within seven years after its being rendered on such terms as may be just, and if the defence be successful and the judgment or any part thereof have been collected or otherwise enforced, such restitution may thereupon be compelled as the Court shall direct, but the title to property sold under such judgment to a purchaser in good faith shall not be thereby affected, and in all cases where publication is made, the complaint must be first filed and the summons as published must state the time and place of such filing.

XXVI. Where the action is against two or more Defendants, and the Summons is served on one or more, but not on all of them, the Plaintiff may proceed as follows :

Proceedings where there are several Defendants and part only served.