

fendants' remedy would be under art. 56 of the rules of practice.

Again, in this case where defendants are invoking the strict letter of the law and finding fault with the plaintiff for not having so done, they must not only be within the spirit of the law, but within the letter of the law themselves. They are asking that plaintiff's action be dismissed because he has not complied with the law and has neglected some detail or essential mentioned in the Code of procedure. It is necessary therefore that defendant thus asking and pleading must be faultless in their own procedure, and they must ask for it with all the formalities required by law, and it seems to me that where you are picking a flaw in your neighbor's procedure, it is *de rigueur* that your own proceeding should be faultless and flawless.

The exception to the form was filed in this case under art. 165 of the Code of Civil procedure, and this article states that it cannot be presented unless it is accompanied with a certificate from the prothonotary of which notice must have been given to the opposite party at the same time as the motion establishing the deposit in the office of the Court of the sum fixed by the rules of practice. This is *de rigueur*. Does such a certificate exist in this case? Is the mere endorsement upon the back of the exception to the form, as was done in this cause, sufficient to comply with the letter of the law? I do not think so. A certificate from the prothonotary, according to art. 165, is as binding as the words "nullity of service" in the amended article of 123, and it does not mean an endorsement upon the back of the exception; it means what it says. And a certificate of the prothonotary under the article in question must be duly made and stamped or it is