

If the plaintiff does not appear personally or by some one on his behalf, or appearing does not prove his demand to the satisfaction of the Judge, the Judge may award the defendant costs and such further sum of money by way of satisfaction for his trouble and attendance, as may appear right under the circumstances. If the defendant does not appear or sufficiently excuse his absence or neglects to answer when his name is called on proof of the service on him, the Judge proceeds to hear the evidence on the part of the plaintiff only, and to give judgment thereupon as if both parties attended. If the claim is on a promissory note or other written contract signed by the defendant for the payment of a certain sum, the judgment is given as a matter of course without any proof, except that of service; and in action upon "an account" when the particular items are given in detail in the "bill" sued on, it is not usual to require further proof than that the summons and account were personally served, for in such cases the Judge may in his discretion give judgment for the plaintiff without further proof.

In all other cases the plaintiff should have the requisite proofs ready when called for by the Court; but from what has been said, the advantage of handing in a detailed account will be very obvious.

The Law is very careful to prevent the plaintiff taking any undue advantage of the defendant by obtaining a judgment against him unawares; but where a defendant has been personally served with a summons to appear—informed of what the plaintiff claims—given full opportunity to answer it—and warned that failing to answer, judgment will be given against him—if, after all this, he fails to appear, or excuse his absence, it seems but reasonable to conclude that he admits the claim against him, that the claim is in fact just.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A. J. P.

(Continued from page 44.)

APPREHENDING THE DEFENDANT.—(Continued.)

The 3rd section, already referred to, of the 16 Vic., c. 178, makes full provision for the backing of a Warrant where the defendant is residing in or suspected to be in another county,—and it is consequently necessary to execute the Warrant out of the jurisdiction of the Justice by whom it is granted. The process of backing the Warrant as already set forth, is upon proof of the hand-writing of the Justice who issued it, and authorizes the execution of the original Warrant within the jurisdiction of

the Justice making the endorsement; it may be in the following form:—

Endorsement in backing a Warrant.

PROVINCE OF CANADA, } Whereas proof upon oath hath this day
County of ——— (or, } been made before me, one of Her
as the case may be.) } Majesty's Justices of the Peace in and
for the said County (or as the case may be) of ———, that the
name of ———, to the within Warrant subscribed, is of the
hand-writing of the Justice of the Peace within mentioned; I
do therefore hereby authorize ——— who bringeth to me this
Warrant, and all other persons to whom this Warrant was
originally directed, or by whom it may be lawfully executed,
and also all constables and other peace officers of the said
county (or United Counties, as the case may be) of ——— to
execute the same within the said last mentioned county, (or
United Counties, as the case may be.)

Given under my hand this ——— day of ———, in the year
of our Lord one thousand eight hundred and fifty ———, at ———
in the county (or United Counties, as the case may be) of ———.

J. P.

It may sometimes happen that the Justice, originally signing the Warrant, is also an acting Magistrate for the county; in which the defendant is to be arrested. When that is the case he should, before he places the Warrant in the hands of a constable, endorse upon it an authority for its execution in the last mentioned county, varying for that purpose the above form. [1]

Under the 4 & 5 Vic., c. 25 and c. 26, and other Acts, any person found actually committing any offence punishable under these Acts, may be immediately apprehended without a warrant by any peace officer or the owner of the property, or by his servant or any person authorized by such owner. The person so apprehended must be forthwith taken before some neighbouring Justice to be dealt with according to law. It is not within the scope of these pages to treat at length of arrests without warrant, but it may be remarked that this power of apprehension should be confined to those cases of emergency where probably justice would be defeated if a Magistrate's warrant was first procured. Where an offender is a transitory person or unknown, and the injury be serious, it might be dangerous to delay; but where he is known as a resident in the place, a Magistrate's warrant should be procured for his apprehension; and it is absolutely necessary that the party apprehended without warrant to be forthwith taken before the nearest Magistrate, for should there be any unnecessary delay, the peace officer or person arresting loses the protection of the law. [2] When the party so arrested without warrant is brought before a Justice and the latter finds it necessary to remand the prisoner for further examination, it will be safer to have a statement on oath of the complainant, and at

[1] This matter should properly have appeared in a previous paragraph.

[2] Reg. v. Curran, 3 C. & P. 207.