

warrant, the defendant may voluntarily appear and give bail, and thus avoid the expense consequent on the issue of process.

An appearance alone, without bail, may be sufficient for the purpose of contesting a suit, but in cases of the arrest of property or of the person, either the demand must be satisfied, or competent bail given before the property or person is released from the arrest.

In order to avoid unnecessary detention when the arrest is to take place at a distance from the Court, a commission for taking bail is to accompany the warrant, as an authority to the party serving the warrant to release the individual or the property on sufficient bail being given.

### § 10. *Proceeding by Default.*

In the case of property arrested, and no party appearing after the return of the warrant, the cause may proceed by default, or *in pœnam contumaciæ*. To this end, on the day the warrant is returned, the parties cited and not appearing, are, at the petition of the Proctor, to be pronounced by the Judge or Surrogate to be in default, and an entry to that effect is to be added by the Registrar to the minute on the return of the warrant in the Assignment Book.

At the expiration of two months from the return of the warrant, if no appearance be given, the parties cited are again to be pronounced in default, and the promoter is to be entitled to a decree pronouncing for the amount of his demand, and giving him a lien on the property; which decree is to be drawn by the Proctor, who, after it has been perused and settled by the Registrar, is to make a fair copy of it for the Court.

An affidavit in verification of all the facts mentioned in the decree is to be made by the party proceeding, which affidavit is to be drawn by the Proctor, and submitted to the Registrar\*.

The Proctor is then to prepare a short case detailing the proceedings, which with a copy of the affidavit he is to deliver to counsel as instructions to move the Court

\*See Forms Nos. 7 and 8.