

the Clerk of the Court for which he acts; this is provided for by the 29th section of the D. C. Extension Act of 1853 and section 1st of the D. C. of 1855. This last requires the Bailiff of any Division Court in Upper Canada, to serve summonses of any Division Court that shall be delivered to him for service, although issued from a Court of which he is not Bailiff; but he is not required to travel beyond the limits of his own county to make a service, and should he choose to do so, he can only charge mileage from the Clerk's office where he receives such summons to the county-line. We refer to what has been already said as to the mode of service: The *time for service* of Foreign summonses is prescribed by the D.C. Act of 1855, sec. 1, as follows: Where the defendant resides in a county *adjoining* the one in which the action is brought, the summons must be served fifteen days; where the county in which the defendant resides, and that in which the action is brought, do *not* adjoin, then twenty days at least before the holding of the Court at which the cause is to be tried. The Clerk who issues the summons, usually endorses thereon the days for service, as "a 15 (or 20) days' service" which will of course be a sufficient guide for the Bailiff. The first duty of a Bailiff is no doubt to attend to the business of his own Court, but business from Foreign Courts should, in its order, receive due attention; a neglect of duty in this last particular will be as much a breach of the Bailiff's security covenant as if the proceeding was in the Home Court.

*Return of Summons.*—According to the 11th rule of Practice, a return must be made by the Bailiff to the Clerk of all summonses from the Home Court, four days before the Court day at which they are returnable; that is to say, if a Court sit on the 5th of a month, the summonses must be delivered to the Clerk at his office, *at latest* on the first day of the month, but Bailiffs should not delay giving in their returns till the latest moment; as services are from time to time made, the return of them should be given in upon the first occasion after service when the Bailiff is at the Clerk's office—otherwise where the causes are numerous, the Clerk will be greatly inconvenienced in preparing the papers for the Court. The returns must state the mode of service—this is sufficiently accom-

plished when the blanks in the affidavits of service are properly filled in; and a special return may probably be dispensed with, but it certainly would be more convenient, as well as more regular, if a Bailiff handed in a list of all the summonses received, with the date and manner of service—and this list the Bailiff could afterwards have by him to refer to in Court if any service was questioned. If a summons has not been served, the reason for non-service must be stated in writing on back thereof, and be signed by the Bailiff: the reason may be stated in brief, as "not delivered; defendant removed from this county," (or "defendant absent from home," as the case may be.)

Return of *Foreign* Summonses should be made immediately after service is effected, to allow ample time for transmission to the Clerk of the Court from which issued. The principle of the 21st Rule of Practice is clearly applicable to all summonses of a Foreign Court sent for service; and that Rule provides, that the Bailiff shall serve the summons, and *forthwith make a return* thereof to the Clerk of his Court, in the manner required by the 11th Rule; that is, the return shall show the *mode of service*—or, if *not* served, the *reason*. Great particularity must be observed in the affidavit of service of such summons, for errors could not be corrected in Court, as might be done in services for the Home Court.

*Forfeiture of fees for non-return.*—With respect to return of summonses, and indeed all other process, punctuality is important to the officer, for the Bailiff forfeits his fees (D.C. Act, sec. 14) unless he makes return within the time required by law; and Clerks are bound to enforce such forfeiture, for the fees forfeited belong to the fee fund.

*Service of Subpœnas.*—The Bailiff must also serve summonses requiring the attendance of witnesses, subpœnas as they are called; the mode of service is prescribed in the 48th sec. of the D.C. Act, viz.: a copy of the subpœna must be served either personally or at the witnesses usual place of abode. We refer to what has been before set down as to the meaning of the term "place of abode"; the copy of subpœna should be left with some *grown person*, an inmate of the defendant's place of abode; No time is fixed either by the Statutes or Rules within which the service of subpœnas is to be made; therefore, the principles of practice in the Supe-