

did not allege specifically against whom the judgment was recovered.—Held, that the writ was not specially indorsed; and a motion for summary judgment was refused. *Boyle v. Victoria Yukon Trading Co.*, 8 B. C. R. 352.

Interest—Summary Judgment—Assessment of Indorsement—Re-service.—Summons for judgment under Order XIV. in an action for principal and interest due under a covenant in a mortgage. The statement of claim indorsed on the writ, in addition to the claim for principal and interest computed to a certain date previous to issue of writ, contained a claim for interest on the principal until payment or judgment.—Held, such claim for interest was not a subject of special indorsement under Order III., r. 6. Held, also, that where, on an application for judgment under Order XIV., it appears that part of the claim is not the subject of special indorsement, it is not open to the plaintiff to obtain an amendment and proceed, but a new summons must be taken out. Where the indorsement of a writ has been amended, re-delivery but not re-service is necessary. *Pike v. Copley*, 22 Occ. N. 218, 9 B. C. R. 52.

Omission of Formal Words—Motion for Summary Judgment.—A motion for summary judgment under Order XIV. was refused on the ground that the writ of summons was not specially indorsed, the indorsement not being headed with the words "statement of claim." *Vancouver Agency v. Quigley*, 8 B. C. R. 142.

Promissory Note—"Duly Presented"—Summary Judgment.—Appeal from an order giving the plaintiffs leave to sign final judgment under Order XIV. The statement of claim indorsed on the writ stated plaintiffs' claim as being on a note dated . . . payable four months after its date to the order of M. L. Wurzburg & Company, at their office, Halifax, N. S., indorsed . . . and which said note was duly presented for payment and was dishonoured.—Held, a good special indorsement. *Cunard v. Symon-Kaye Syndicate*, 27 N. S. Repts. 340, distinguished. *Union Bank of Halifax v. Wurzburg & Co., Ltd.*, 22 Occ. N. 402, 9 B. C. R. 160.

Signature of Plaintiff's Solicitor—Order XIV.—Summons for judgment under Order XIV. Preliminary objection that the writ was not specially indorsed, in that it was not signed by the plaintiff's solicitor.—Held, that it was not a good special indorsement. *Oppenheimer v. Oppenheimer*, 21 Occ. N. 576, 8 B. C. R. 145.

IX. OTHER CASES.

Action for Revocation of Letters Probate—Practice—Affidavit verifying indorsement—Citation to custodian of letters—Stay of proceedings. *McLagan v. McLagan*, (B.C.), 2 W. L. R. 12.

Address of Defendant—Foreign Defendant.—The address of the defendant is a necessary part of the writ of summons, and in a proper case the writ may be amended by inserting it. But where the address of a foreign defendant was omitted, no explanation of the omission being given, and no cause of action in Ontario against the foreign defendant being shown, the writ was, on his application, set aside with costs. *State Savings Bank v. Columbus Iron Works*, 23 Occ. N. 306, 6 O. L. R. 358, 2 O. W. R. 733.

Application to set aside—Irregularity—Intitling of affidavits. *Toronto and British Columbia Lumber Co. v. Moore* (B. C.), 2 W. L. R. 239.

Irregularities—Prejudice—Qui Tam Action—Reference to Sovereign—Name of Plaintiff.—In an action qui tam, the defendant cannot set up grounds resulting from irregularities of the plaintiff as long as they do not cause prejudice. 2. The word "us" in the words "suing as well as in his own name as for us" contained in form 3 of the Rules of Practice of the Superior Court is sufficient to designate his Majesty the King. 3. It is not necessary to give all the plaintiff's names, provided he is sufficiently designated in the writ. *Ridgeceay v. Collier*, 5 Q. P. R. 308.

Irregularity—Action in name of next friend—Consent not filed—Application of English Rule—Death of plaintiff—Revivor—Effect on irregularities. *Houston v. Spence* (N.W.T.), 2 W. L. R. 343.

Saisie-revendication—Declaration—Filing—Time—Record.—A writ of summons or of saisie-revendication filed without the original declaration is an absolutely void proceeding, and a defendant, who has appeared in the cause, but who has not pleaded, may take advantage of the nullity at any stage of the cause without having recourse to an exception to the form, and have the action dismissed upon motion to that effect even on the day fixed for hearing; for it such case there is really no action before the Court. 2. A declaration placed upon the plaintiff for a return of his action and a long time after the issue of the writ, without the consent of the opposite party or the permission of a Judge, is irregularly upon the record and will be considered as if it were no declaration at all. *Bouchard v. Boivin*, 6 Q. P. R. 41.

Summary Matter—Heading of Writ.—The provisions of the Code of Procedure relating to summary matters do not apply unless the words "summary procedure" are written or printed at the head of each original and copy of the writ of summons. *Bernard v. Carbonneau*, 6 Q. P. R. 348.

YUKON TERRITORIAL COURT.

See APPEAL COURTS.

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