

renewal. The renewed writ was not served until 19th January, 1899, and at that time the defendant had made application for his certificate of improvements and crown grant to the Pack Train mineral claim, and his application was then under consideration by the Government.

*Held*, that the plaintiff had not prosecuted his action with reasonable diligence as required by s. 37 of the Mineral Act, and that the order must be set aside.

*Duff*, for the motion. *A. E. McPhillips*, contra.

Duke, J.]

WALT v. BARBER.

[April 10.

*Arrest—Ca. re.—Affidavit—Statement of cause of action—Particulars of, contained in exhibit to affidavit—R.S.B.C., 1897, c. 10, s. 7—Costs.*

Application by defendant to rescind order of WALKEM, J., and to set aside order for ca. re. and all other proceedings had by the plaintiff, and to discharge defendant from custody. One of the grounds on which the motion was made was that the affidavits on which the said order was made were not sufficient to hold the defendant to bail. The material part of plaintiff's affidavit was as follows: "That the above-named defendant is justly and truly indebted to me in the sum of two hundred and fourteen dollars and ninety-five cents, according to the endorsement on the writ of summons herein, marked exhibit 'A' to this my affidavit."

*Held*, that the plaintiff's cause of action should appear in the affidavit leading to an order for a writ of ca. re., and a statement in the affidavit that the defendant is indebted to plaintiff in a sum as appears in an exhibit to the affidavit is insufficient. Proceedings to discharge from custody a person arrested under a writ of capias should be by summons, and where objections are taken to the proceedings on the ground of irregularity, the specific irregularities should be set out.

*T. M. Miller*, for the motion. *Alexis Martin*, contra.

Walkem, J.]

RE NUNN.

[April 10.

*Justice of the Peace—Jurisdiction—Inquiry commenced by one—Completed by two.*

This was order nisi calling upon the keeper of the county gaol at Victoria to show cause why a writ of habeas corpus should not issue, commanding him to bring up Fanny Nunn, a prisoner under bail upon a warrant of committal granted by two justices of the peace, in order that she might be discharged from custody. The prisoner, Fanny Nunn, laid an information in October against one Annie Keats for using threatening and abusive language, and on the hearing, before the police magistrate, the prisoner was a witness. Her evidence was subsequently impeached and