

of service, in case any of the defendants named in such writ may have been served with a copy thereof.

27. In all suits wherein the writ shall not be so as aforesaid indorsed for bail, the defendant shall not be arrested, but shall be served with a copy of the process within the jurisdiction of the Court in the same manner as a writ of summons, and such service shall be of the same force and effect as the service of a writ of summons hereinbefore mentioned.

28. The plaintiff after the commencement of an action by writ of summons, but before judgment in such action, upon making and filing an affidavit of debt conformably to the practice of the Court in bailable actions, with an allegation therein that he has good reason to believe, and does believe, that the defendant is immediately about to leave the Province, or on obtaining a Judge's order for that purpose (in cases where the practice of the Court a Judge's order to hold to bail is necessary), may sue out a writ of *capias* and one or more concurrent writs, and renew such writs by *alias* or *pluries* in the manner directed by this Act, which writ of *capias* shall be in the form No. 6 in Schedule A; and so many copies of such writ, with every memorandum or notice subscribed thereto or indorsed thereon, as there may be persons intended to be arrested thereon, shall be delivered with such writ to the Sheriff or other officer who may have the execution thereof, and who shall upon or immediately after the execution thereof cause one such copy to be delivered to every person upon whom such writ shall be executed, and shall immediately thereafter indorse thereupon the time, day and manner of the execution thereof; and the proceedings in any such action shall be carried on to judgment without regard to the issuing of such *capias*, or to any proceedings arising from or dependent thereon; and on signing judgment the plaintiff shall be entitled to tax the costs of such writ or writs of *capias*, and the proceedings thereon, in like manner as if the suit had been commenced by *capias*, together with the other costs incurred and taxable in the cause.

#### RENDER.

29. A defendant who shall have been held to bail upon any mesne process, may be rendered in discharge of his bail to the common gaol of any County in which he may be, and the render to such County Gaol shall be effected in manner following, that is to say,—the defendant or his bail, or one of them, shall for the purpose of such render obtain an order of a Judge, and shall lodge such order with the gaoler of such gaol to which the render may be made; and a notice in writing of the lodgment of such order, and of the defendants being actually in custody of such gaoler by virtue of such order, signed by the defendant or the bail or either of them, shall be delivered to the plaintiff's attorney; and the Sheriff of such County shall on such render so perfected, be duly charged with the custody of such defendant, and the said bail shall be thereupon exonerated from liability as such; provided always, that in any County in which there may not be a Judge at the time of any render so to be made, an order for such render may be obtained from any Commissioner for taking bail in the Supreme Court for such County, which order such Commissioner is hereby authorized in such cases to grant.

30. A defendant who shall hereafter be in custody of any Sheriff by virtue of any legal process, may be rendered in

discharge of his bail in any action depending in the Supreme Court, in the manner hereinbefore provided for a render in discharge of bail; and such Sheriff shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

31. Special bail may be put in and perfected according to the established practice; and after special bail has been so put in, the plaintiff may proceed in like manner as if the action had been commenced by writ of summons, and the defendant had appeared thereto.

#### MISCELLANEOUS PROVISIONS.—RESPECTING WRITS.

32. If the plaintiff or his attorney omit to insert in or indorse on any writ or copy thereof, any of the matters required by this Act to be inserted therein or indorsed thereon, such writ or copy shall not on that account be held void, but it may be set aside as irregular or be amended upon application made to the Court or to a Judge, and such amendment may be made upon any application to set aside the writ upon such terms as to the Court or Judge seems fit.

33. If any one of the forms of writs of summons in the Schedule A, marked respectively Nos. 1, 4, and 5, shall by mistake or inadvertence be substituted for either of the others, such mistake or inadvertence shall not be an objection to the writ or any other proceeding in such action, but upon an *ex parte* application to a Judge, whether before or after an application to set aside the writ or any proceeding thereon, and whether the same or notice thereof has been served or not, the writ may be amended by such Judge without costs.

#### APPEARANCE.

34. The mode of appearance to the writ of summons shall be by filing in the office of the Clerk of the Pleas, and serving a copy thereof on the plaintiff's Attorney, a memorandum in writing in the following form, or to that effect:

##### SUPREME COURT.

A. B., Plaintiff, against C. D., Defendant, or, against C. D. & E. F., Defendants.	}	The Defendant, C. D. appears in person. Dated, &c. Or, The Defendant appears by G. H., his Attorney. Dated, &c.
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[If the Defendant appears in person, state his Address.]

35. Every appearance by a defendant in person shall give an address, at which all pleadings or other proceedings not requiring personal service may be left for him; and if there are several defendants who appear in person, service at the address of either of them shall be sufficient; such address shall be a place in the County in which the plaintiff's Attorney or the defendant resides, and not more than three miles from the Court House; if such address be not given, the appearance shall not be received; and if an illusory or fictitious address be given, the appearance shall be irregular and may be set aside by the Court or a Judge, and the plaintiff permitted to proceed by sticking up the proceedings in the office of the Clerk of the Pleas.

36. It shall not be necessary in any case for the plaintiff to enter an appearance for the defendant.

37. In case of non-appearance by the defendant, where the writ of summons is indorsed in the special form provided in the seventh section of this Act, the plaintiff may, on filing