

SESSIONAL PAPER No. 18

answer to the plaint of the plaintiff in writing, and either in the French or English language, as he thought proper: and this answer should be filed amongst the records of the court. The judge should then himself interrogate the parties concerning the facts, in their account of which the parties seemed to differ, and which appeared to him to be material to the decision of the cause: and these interrogatories and the answers of the parties should be reduced to writing by the judge, or by the clerk of the court from the words dictated to him by the judge. When the judge had thus found out in what facts material to the decision of the cause the parties differed, he should himself state these facts in writing, and declare that it was necessary for him to be informed, by proper testimony, whether they were true or false; and should ask the parties whether both, or either of them, desired that he should inquire into the truth of these facts by means of a jury, or by examining witnesses, or other proofs himself.

Juries^{to be} summoned, if
the parties
desired it.
They should
be paid for
their attend-
ance.

If both, or either of the parties, desired to have a jury, a jury should be summoned to attend, at such following session as the judge should appoint. This jury should be paid for their attendance by the party that desired to have a jury; and if both desired it, then equally by both parties. They should receive five shillings sterling a man. For at present it is a subject of complaint among the Canadians that they are taken from their necessary occupations to attend upon juries (which is by no means an agreeable employment to them) without any consideration, for it: and this, if it happened every week without any compensation, would be thought, and perhaps justly, a very heavy burden. But for a reward of five shillings they will serve with great alacrity.

Manner of
chusing them.

These juries should be appointed in nearly the same manner as special juries are in England; that is, the ministerial officer, that executed the process of the court, should return to the court a list of four times as many persons qualified to be jurymen as were necessary to constitute a jury; that is, if a jury was to consist of twelve men, a list of forty-eight persons so qualified; and then each party should strike out twelve of the names contained in this list: and then the names of the remaining jurymen contained in it should be set down in a new list in an alternate order; that is, first one at the nomination of the plaintiff; then one at the nomination of the defendant; then another at the nomination of the plaintiff; and then another at that of the defendant; and so on: and these persons (whose names were thus set down in this new list; and who would be enough in number to constitute two juries) should all be summoned to attend the court on the day appointed for the trial of the cause, and should be called over in the court in the order in which their names were