

and to discuss parts.

P.,
ly 23, 1879.

that it might at our present be consulted by difficulties, and points may be have presented them before

on having the anomaly of day of vacation, and I it. A clause the hours for twelve, but I now proceed to consulted, in as

defendant pays money out in court, and it taxation the a of payment, f's costs to be

fees to a party as a necessary amined at the al only for the he would not y for him to do vit is made the for attendance the Court case d a certificate me costs as he proper Division

Court. This especially applies to the distance travelled by witnesses, and the number of days attendance at the trial. The witnesses might all reside in the immediate neighbourhood of the Division Court—and a Division Court it may be taken for granted would last only one day—but they may have to travel many miles to the Assize town, and may be there weeks before the case is tried. In such a case the Plaintiff should only be allowed the distance the witnesses would have necessarily to travel to the Division Court, and only one day's attendance.

Where an order is made on a Chamber application which provides that the costs of the application shall be costs in the cause to either Plaintiff or Defendant, if the party in whose favour the costs are made costs in the cause fails in the action, he cannot be allowed the costs under the order, because he is not entitled to the costs of the cause, and his right to the costs under the order was contingent upon his succeeding in the cause.

The following would be the formal parts necessary on an examination of a party before Judge:—

COUNTY COURT OF THE COUNTY OF

A. B. Plaintiff, Examination of the Defendant C. D. taken on oath
C. D. Defendant, before me, E. F., Clerk of the C. C. of
, under and by virtue of an order in that behalf made by
His Honor, the Judge of this Court, ordering such
Examination. Dated day of , 1879.

Present: W. BETHUNE, Attorney for Plaintiff.
T. CHEATHAM, Attorney for Defendant.

The Defendant being sworn says as follows:

(Here follows Examination.)

And I certify that the Examination was read over to the Defendant, and was signed by him in my presence, and in the presence of , being the parties attending when the signature was made.

(The certificate must be altered in case the party examined either could not or would not sign it—when it would read—"was signed by me, the said Defendant being unable—or refusing—to sign name." See Sec. 164, Sub. Sec. 2., C. L. P. Act, page 643.)

Where a Summons was granted to set aside a notice of trial with a stay of proceedings, and a copy of it served on the Clerk of the Court, and the case was still pending undecided before the Judge, and the Plaintiff in the face of the stay of proceedings desired to enter his record for trial with the Clerk, I advised the Clerk to enter the record at the Plaintiff's own risk, the duty being a ministerial one, as much so as filing a paper; and if the record is improperly entered the Defendant can apply to set it aside or strike it out. Besides, it is the Plaintiff who enters the record,