

Duty of the Clerk in such cases.

Consequence of such payment.

Defendant to have costs if no greater sum than that paid in, be recovered by the Plaintiff.

All credible persons, including the parties to any suit may be examined on the trial.

Proviso.

False swearing or affirmation to be perjury.

Either parties may obtain subpoenas for witnesses.

Who may serve such subpoenas; obligation of the party so served.

Tender of expenses.

shall be forthwith communicated by the Clerk of the said Court to the Plaintiff, by Post or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the Plaintiff, and all proceedings in the said action shall be stayed, unless the Plaintiff shall within three days after the receipt of notice of such payment signify to the Clerk of the said Court, his intention to proceed for the remainder of the demand claimed; and in such case the action shall proceed as if it had been brought originally for such remainder only: Provided always, that if the Plaintiff shall recover no further sum in the action than such sum as shall have been paid into Court under the provision hereinbefore contained, the Plaintiff shall pay to the Defendant all costs, charges and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the Court, and shall be recovered by the Defendant by such ways and means as any debt ordered to be paid by the Court can be recovered.

XLI. And be it enacted, that on the trial of any such suit, the parties thereto, being credible persons, and all other credible persons whosoever, may be examined upon oath or affirmation (being of any of the classes allowed by law to affirm in any judicial proceedings) which the Judge shall openly administer to each party or witness at the time of his giving his evidence touching the matters in dispute, without regard to any objection on the ground of incompetence from interest or otherwise; Provided always, that Judgment shall in no case be given for either party in any action for any sum on the oath or affirmation of the Plaintiff or Defendant respectively without other sufficient evidence.

XLII. And be it enacted, that every person who in any examination shall wilfully and corruptly give false evidence, shall be liable to the penalties of perjury.

XLIII. And be it enacted, that either of the parties to the suit may obtain from the Clerk of the Division Court, wherein the same shall be brought, summons to witness, with or without a clause requiring the production of books, papers and writings in their possession or control; and in any such summons any number of names may be inserted, and service of any such summons by the Bailiff of any other Division Court, shall be as valid and effectual as if the same had been served by a Bailiff of the Court out of which the same issued; and every person on whom any such summons shall have been served, either personally, or at his or her usual place of abode, and to whom at the same time, a tender of payment of his or her expenses shall have been made, on such scale of allowance as shall from time to time be settled by the Judge, and approved by a Judge of the Court of Queen's Bench of that part of the Province formerly called Upper Canada, and who shall refuse or neglect without sufficient cause, to appear or to produce any