

1880

MINUTES AND PROCEEDINGS.

5

aminations, as
suit. If any
objection, but
ed, to deter-
or not, and
s should take
ure, commend
here are very
the law of
of parties ap-
the City of
t of suitors it
ould only be
ence in such
ot to allow
t to be intro-
is in confor-
in the 163rd
question asked
rer or objec-
transmitted to
demurrer or

Further right than any person who is not a Sheriff has and subject to the same disabilities as to charges, &c. But in the extreme case put when the service by the Sheriff, out of his county, only occasioned 6 miles travel, whereas if it had been served by the proper Sheriff, 100 would have been travelled, though it makes no difference as to the legal right of the Sheriff to the charges, I would think it very pardonable in the officer to allow the Sheriff his usual charges for service and mileage, thereby doing a little wrong, to effect a much greater right. But this would only be justifiable in such extreme cases and I may add that I am rather afraid if tested by appeal, it would not stand.

When a Writ of Summons is, say against four Defendants, the Plaintiff may drop any of the defendants he pleases in his declaration; by so doing, he discontinues the action against the defendants not included in the declaration, the officer simply does nothing as to style of cause—it remedies itself. He would merely enter in his books, "Declaration against A. and B," this would show that C. and D. had been dropped. The parties themselves would only include A. and B in the style of cause, subsequently.

When pleas have been filed, they cannot be withdrawn and others filed in their stead, without a Judge's order.

Instructions, 50 cents, is allowed on an application for an order to Examine, also on any other chamber application.

When an appointment to examine has been granted, and on its return, the party to be examined does not appear, the Examiner should make a minute of the non-appearance of the party and of the attendance of the other party, if it was so, so that he might be in a position to certify to it at any future time. He should charge nothing for this minuting. If he enlarges an appointment, he should charge the same as for the original appointment. In case of such non-attendance and certificate being granted, it should be handed to the party requiring it, to take such action on it as he may desire, and should not be sent to the head office at Toronto. Section 166, Cap. 10, R. S. O., applies only when a special report is necessary, owing to some circumstance out of the ordinary course arising, which the Examiner considers material that the court should be made acquainted with, such as misconduct of parties, refusal to answer questions, &c.

At the Assizes, an exhibit should be given up on the oral order of the Judge. The order should be minuted in the Clerk's book.

The Rule as to not bringing papers out of your office without a Judge's order, applies to all papers—there is no exception. The proper way to prove an examination under the A. Justice Act, is by a copy certified by the Examiner or Clerk of Crown, Toronto.

When two Baristers, belonging to the same firm, appear at a trial, the rule is to treat them as one, except in very important and exceptional cases. Under such circumstances, sometimes a larger fee is allowed than if only one had attended. The officer should

*insisting
defect
now
done*

Pleas

*Inspection
on order
to examine, &c.*

*to be given
out of office
without the
order*

*Giving an
order
on Judge's
order*

*to be given
out of office
without the
order*