

Commission. well have been taken by commission, or whether it was of such a nature as to require to have been given orally; if the former, then whether a commission would have been to a material extent a cheaper mode of taking the evidence; if so, I would allow the probable costs of the commission, but I would only do this when the difference was material. As to cross examining the Plaintiff under such circumstances on his affidavit, I think I would leave Defendant to make an application in Chambers for leave to do so, and for a stay of proceedings.

Discontinu-
ance Writ not
served. When a writ was issued but not served, and Defendant entered an appearance, and Plaintiff took no step in any way recognizing the step taken by Defendant but afterwards discontinues, I do not think that Defendant would be entitled to instructions to defend.

Final judgment, how
vacated. When a final judgment has been signed it can only be got rid of by an order; any consent given to set it aside can only operate as a consent for an order for that purpose.

Interpleaders' High Court
case, order to
try in County
Court, Costs,
etc. Where an order issues out of the High Court for the trial of an interpleader issue in the County Court, the proceedings are carried on in the County Court, and all charges of the issue are County Court charges.

Term fee,
judgment by
default. On signing a judgment on a specially endorsed writ for want of an appearance for damages no court or term fee should be allowed.

Sheriff
seizures, by
direction of
Plaintiff, his
fees. When a Sheriff received a *fi. fa.* goods, and by direction of the Plaintiff travelled 42 miles to make a seizure and found that there was nothing to seize and had to return the writ N.B., the Plaintiff would, I think, be liable to the Sheriff for his usual charges for mileage.

Appointment
to examine
by Local
Registrars. A Local Registrar can, under Section 159, page 641 R.S.O., issue an appointment to examine in a case in the Chancery Division; this being an Act of Parliament applies to the High Court of which the Chancery Division is a part; also a Local High Court Judge can grant an order to examine in a Chancery Division case under Section 157, this power having been specially given under Section 76 of the Judicature Act.

Arrest,
Mileage,
Service. In the Common Law Divisions a Sheriff can only get mileage on going to arrest—but in the Chancery Division he can get mileage going to arrest and returning with the prisoner; he is not entitled to one dollar and fifty cents for service of a copy of the writ on the party arrested, this is a part of the arrest.

Amendment,
who to make
under order. When an order is made permitting a party to a suit to amend say a pleading, the onus rests on the party obtaining it to act on it and procure the amendment to be made; unless he does so the pleadings remain as they were and you must treat them so; for instance, if you were certifying the pleadings you should certify them as they are without respect to the order for amendment—if not acted on because there has been no amendment made and no fees paid for an amendment.

Marking
exhibits
allowance. Items 128, 129 and 130 are taxable to parties when affidavits are made referring to exhibits not attached to the affidavit—if the exhibits are attached to the affidavits then these items do not apply.