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1879

It was agreed to hear the President's paper first, and to discuss it as far as necessary to understand all its different parts.

CROWN OFFICE, C. P.,  
TORONTO, July 23, 1879.

GENTLEMEN :

Since our meeting in July 1878 it occurred to me that it might be of interest to you if I would draw your attention at our present meeting to some of the points on which I have been consulted by various Deputy Clerks about which they expressed difficulties, and desired information and direction. Many of these points may be familiar to some of you, but inasmuch as they have presented difficulty to others I have thought it better to bring them before you, even at the risk of being considered tedious.

First, I am sorry that I cannot congratulate you on having something like a vacation, and being freed from the anomaly of being obliged to be in your offices an hour extra each day of vacation. This always has seemed to me to be a great hardship, and I have done what I could to have you released from it. A clause was introduced into an Act last Session making the hours for keeping your offices open in all Courts from ten to twelve, but I find that it was struck out in Committee. I will now proceed to put the various points upon which I have been consulted, in as concise a form as possible.

When there are two counts in a declaration : Defendant pays money into Court upon one, Plaintiff takes the money out in satisfaction and goes on with the action on the other count, and it results in a general verdict for Defendant. On taxation the Plaintiff will be entitled to the costs up to the plea of payment, and the Defendant to all subsequent costs ; Plaintiff's costs to be set off against Defendant's.

The affidavit upon which it is sought to tax witness fees to a party in a cause should explicitly state that the party was a necessary and material witness on his own behalf, and was examined at the trial as such witness, and that he attended such trial only for the purpose of giving such testimony ; and further, that he would not have attended such trial if it had not been necessary for him to do so to give such testimony. When the proper affidavit is made the party will be entitled to the ordinary witness fees for attendance and time.

Where a Plaintiff recovers a verdict in a Superior Court case which entitles him only to Division Court costs, and a certificate for costs is refused, he is only entitled to the same costs as he would have had had he brought the action in the proper Division

Court. The witnesses and witnesses must be sworn in the Division Court would last of to the Assize. In the distance the Division Court

Where an order is made that the Plaintiff to either Plaintiff or Defendant the costs are made in favour of the Plaintiff allowed the costs of the Plaintiff contingent upon the result of the trial.

The following is the substance of the opinion of the

COUNTY

A. B. Plaintiff,  
C. D. Defendant

His Honor  
Examination.

The Defendant

And I certify that the Defendant was signed by

(The certificate is not to be taken as a precedent for a Defendant being examined in the Division Court, Sec. 2, C. L. P.

Where a stay of execution is granted in the Court, and the Plaintiff desires to enter a writ of Habeas Corpus, the Clerk to enter a writ of Habeas Corpus is ministerial and is not to be refused improperly. If the writ is improperly refused, it should be struck out.