

Service.

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 Division Court or by any literate person shall be valid and effectual ; 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 the scale of allowance given in the Schedule marked C, to this Act, and who shall refuse or neglect without sufficient cause to appear before the Court or before arbitrators appointed under this Act, or to produce any books, papers or writings required by such summons to be produced, and also every person in Court called upon to give evidence, who shall refuse to be sworn or affirmed (where affirmation is by law allowed) and give evidence, shall forfeit and pay such fine not exceeding five pounds as the Stipendiary Magistrate shall set on him, and shall moreover be liable to imprisonment by order of such Stipendiary Magistrate for any time not exceeding ten days ; and such fine shall be levied and collected with costs in the same manner as upon a judgment of the Court, and the whole or any part of such fine, in the discretion of the Stipendiary Magistrate (after deducting the costs) shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall be paid over to the Stipendiary Magistrate, and accounted for by him as aforesaid.

Penalty for disobeying subpoena.**How to be levied and applied.****Clerk or bailiff may receive confessions of judgment.**

XXVIII. It shall and may be lawful for any Bailiff or Clerk of the said Courts to accept and take a confession or acknowledgment of debt in the form in Schedule marked D from the defendant in any suit hereafter to be brought in any Division Court who may be desirous of making the same, and such confession or acknowledgment shall be in writing and witnessed by the Bailiff or Clerk at the time of the taking thereof ; and upon the production of such confession or acknowledgment to the Judge, and its being proved by the oath of the said Bailiff or Clerk, judgment may be entered thereon ; and such oath or affidavit shall state that the party making it has not received and is not to receive any thing from the plaintiff or defendant, or any other person, for taking such acknowledgment, and that he has no interest in the demand sought to be recovered.

Set-off and statute of limitations pleadable.

XXIX. Any defendant may avail himself of the law of set-off, the statute of limitations, or any other relief or discharge under any statute or law of Upper Canada, and may set up the same by way of defence on the hearing or trial ; and in case of set-off, if the defendant's demand exceed that of the plaintiff, the Stipendiary Magistrate may non-suit the plaintiff, or if the defendant's demand, after remitting any portion of it he may please, do not exceed twenty-five pounds, the Stipendiary Magistrate may give judgment for the defendant on the balance found to be in his favor : Provided always, that no statutory defence shall be admitted unless notice thereof in writing and a copy of such debt

Proviso.