

1879

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MINUTES OF MEETING.

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and carried on in an outer office. As to ejectments, I do not think the question free from doubt, but it is certainly the practice to do so, and until it is held wrong by competent authority, I would still continue to do so. The doubt is raised by the different wording of the statute when referring to ejectments and other cases.

When a Sheriff is asked to search for executions in his hands against, say, John Brown, and for a certificate as to same by parties not parties to any suit against Brown, and on searching he finds say three, one at suit of Jones, another at suit of Robinson, and another at suit of Ferguson, the Sheriff must include these in one certificate, and can charge for only one and three searches. Some Sheriffs insist on giving a certificate in each case, thereby increasing the cost very much; but they have no right to insist upon doing so, the certificate is not in the cause but in *Re John Brown*.

When a Superior Court record is tried at a County Court, or a County Court record is tried at the Assizes, the cost shall be the same as if the case was tried in the Court in which the case was originally brought or commenced. Chap. 49, R. S. O., from secs. 31 to 44, both inclusive.

Generally speaking an officer is not responsible for the correctness of a practitioner's proceedings, such as Judgment Rolls, etc., etc., but there are cases of mistake which have come under my notice in which I think the officer would be held responsible. For instance: An Attorney brings into your office a specially indorsed writ with an affidavit of service, the writ being against John Brown, and he produces a Judgment Roll and signs a judgment against Frederick Robinson, a party not named in the writ, and on the judgment issues in good time an execution against Robinson, and his goods are levied on, the only authority to sign such a judgment is given by the statute, and it can only be done on the production of a writ duly indorsed with an affidavit of service; and if the officer signs a judgment against any one without these requirements being complied with, I would be inclined to think that he might be held responsible.

Where an action is brought against several Defendants and one Defendant succeeds in obtaining a verdict, all being defended by one Attorney, before any costs can be allowed to the Defendant succeeding he must show that he has bona fide incurred costs, and is liable to the Attorney for same; as in many cases the Defendants against whom the verdict is given are the parties who employed the Attorney and who pay him, and the other Defendant was merely such owing to his connection with them, and was defended at their expense; for instance, it is generally so in

COURTS.

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by the Sheriff
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