

1884

I hope the present printer will be more expeditious. You must remember that per contra the printing costs us nothing and I hope the matter is worth waiting for. I intend trying this year to send it out with as little delay as possible.

I would now draw your attention to some points upon which gentlemen seemed in doubt and consulted me.

Where there are several Defendants, and final judgment by default is signed against one, it should be at once entered in the judgment book, and when the proper time has elapsed execution can issue on it and so on against each Defendant as the time expires for entering a defence without a defence being entered, the time limited in each case of course expiring at different periods. You will see the necessity of this, as the judgment is not entered until its insertion in the judgment book; I thought this was made clear enough at 13/83, but now I hope it will be perfectly so.

If an amount is endorsed on a writ as a demand for costs the Defendant can pay the debt and costs as claimed and get a discharge, but if Plaintiff has to sign judgment in the case he gets his taxable costs irrespective of amount endorsed.

If money is paid into court in an outer office by Sheriff or otherwise, it is best to specially deposit it in the bank at such rate of interest as can be obtained for it, and when it comes to be paid out the deposit receipt can be endorsed over to the party entitled to receive it, which will of course carry with it all interest that has accrued on it.

When there are two Defendants, one in and the other out of the jurisdiction and both appear by the one Solicitor, they are entitled to a precept order for production without any judge's order therefor. I don't see what could have raised a doubt as to it.

A witness, who is an advocate from Montreal, or a solicitor or counsel from any other country, say the United States, giving evidence, owing to professional services rendered, would be entitled to \$4 a day witness fees.

A Plaintiff came from Portage La Prairie to Brampton and sought to be allowed his fees on taxation as a witness in his own behalf. Defendant sought to enlarge the entry of judgment until he could examine the Plaintiff on his affidavit; the Plaintiff being now in Portage La Prairie, it happened that the Plaintiff's affidavit was insufficient to obtain the fees on, but if it were otherwise I advised that to obtain such fees he should show: 1st, that he was a necessary and material witness; 2nd, that he gave evidence; or, if not, then that he showed some good and sufficient reason why he did not, the same as any other witness subpoenaed but not examined would be required to show before his fees would be allowed; 3rd, that he came solely for the purpose of giving such evidence and on no other business, and that he only attended such trial for the purpose of giving such testimony, and that he would not have attended such trial were it not that it was necessary to give evidence in his own behalf; this being done if he gave evidence the officer should examine same and see whether it was of a character to bear out the affidavit; if not, the fees should be disallowed; if yes, the fees should be allowed; besides this the officer should consider whether the testimony could as

Judgment by default, several Defendants.

Writ, amount endorsed for costs.

Money in Court.

Precept order for production.

Witness fees, Professional.

Witness fees, parties to suit, affidavit necessary.