

interpleader proceedings would never have been necessary. As a matter of fact, probably I ought not to have granted the interpleader summons. The affidavits on these applications are always exactly the same, and my usual practice is to ask the advocate applying if the affidavit is in the usual form, and, if he states the affirmative, to ask him to read the claim and the execution creditor's answer to the notice of claim, if any. I pursued that practice in this case. If the deputy sheriff had not made the affidavit on the 24th, before the time had expired, he could not have made it before the 26th, and before he could make it on the 26th he would have got his mail, and he could not then have possibly made the affidavit he did make. The question of costs of this application is in my discretion, and I think I will do justice under the circumstances of this case by dealing with them in the same way as they would have been dealt with under the old practice, namely, by allowing no costs to any person, and I take that course.

Order that the execution creditors, having admitted the claim, and the deputy sheriff having withdrawn from the seizure, that no action be brought against the deputy sheriff.

*Order accordingly.*

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CALDER v. NAROVLANSKY ET AL.

*Costs—Foreclosure—Brief and instructions for brief.*

The advocate for the mortgagee in foreclosure proceedings is entitled to tax against the defendants the fee allowed by the tariff for "Instructions for Brief" and for "Brief," although the defendants do not appear to the suit, nor in any way oppose the proceedings. A fee for perusing an originating summons, and a fee for instructions for pleadings, are also taxable, on foreclosure proceedings.

[WETMORE, J., April 27, 1900.]

Review of taxation of the plaintiff's costs. The proceedings were commenced by originating summons for foreclosure of a mortgage. None of the defendants appeared at the return of the summons, or in any way opposed the foreclosure proceedings. On the taxation of the plaintiff's costs, pursuant to decree *nisi*, the taxing officer disallowed "Instructions

Judgment.  
Wetmore, J.

Statement.