and have been well satisfied with the result of our test.

In order that an example may be given to the reader of the learning evinced in the preparation of the work, we transcribe, from page 31, part of the note on writs of *certiorari*:—

"A *certiorari* is an original writ issuing out of Chancery or the King's Bench [but is under this section confined to the Superior Courts of Common Law], directed in the King's name to the judges or officers of inferior courts, commanding them to return the records of a cause pending before them, to the end the party may have the more sure and speedy justice before him, or such other justices as he shall assign to determine the cause. (Bacon's abr.)

The application should be made to a judge in Chambers and not to the full court. (*Re Bowen* v. *Evans*, 18 L. J., Ex. 38; *Soloman* v. *London C. & D. R. W. Co.*, 10 W. R., Ex. 59).

To entitle a suitor to this writ it must be shewn that,

1. The amount claimed is $40 and upwards.
2. That the cause is a fit one to be tried in one of the Superior Courts, that it will, in all probability, bring up difficult points of law at the trial, or that it presents some other circumstance which would render a trial in the court above advisable, and,
3. The leave of a judge must be obtained.

As a general rule a *certiorari* only lies before judgment with a view to a trial of the cause in a Superior Court (*Siddall* v. *Gibson*, 17 U. C. Q. B 98); and *Robinson*, C. J,, in *McKenzie* v. *Keene*. 5 U. C. L. J. 225, refused an order after judgment and execution regularly issued and money made and paid over, although a new trial was subsequently granted by the county judge. But generally when a new trial has been ordered, and the case is again coming on for trial, a writ may issue. (See *Help* v. *Lucas*, 8 U. C. L. J. 184; *Corley* v. *Roblin*, 5 U. C. L. J. 225.)

The 43 Eliz. cap. 5, provides that no such writ shall be received or allowed by the judge except it be delivered to him, before the jury, which is to try the question, has been sworn. 'The mischief,' said *Richards*, C. J., in *Black* v. *Wesley*, 8 U. C. L. J. 277, 'intended to be cured by the statute arises when the cause is gone into before the judge alone, as before a jury; for it enables the defendant, in the language of the statute, to 'know what proofs the plaintiffs can make for proving their issue, whereby the defendants that sued forth the writ may have longer time to furnish themselves with some false witnesses to impugn these proofs, which the plaintiffs have openly made by their witnesses, which is a great cause of perjury and subornation of perjury.' I think the act in spirit applies to cases where plaintiff's witnesses are sworn although no jury is called.'

The removal of a cause under this section is entirely in the discretion of the judge to whom the application is made, upon its being shewn to him that difficult questions of law are likely to arise, and he may impose such terms as he thinks fit. Each case must therefore depend on its own merits, and the circumstances attending it. With reference to the English cases as to the *discretion* of the judge, it is to be noticed that the wording of the analogous sections of the English act is different from that before us," &c.

The above is only a part of a very full and complete note on the subject, which we cannot give at length, but which, though interesting and instructive to all, shews more particularly the value of the work to lawyers; while the following, which we take at random, will testify its value to practitioners in, and particularly to the officers of Division Courts. And first we copy the note to the latter part of Rule No. 48:—

"Sec. 36 authorises the clerk to 'tax costs subject to the revision of the judge.'

Any person giving evidence before the judge is entitled to his witness fees, whether attending under a subpœna or not. And if in the opinion of the judge, a witness is material, he would, if attending on a subpœna, be entitled to be paid even though it should not be found necessary to call him.

The latter part of the rule gives the clerk a *quasi* judicial position, and requires that he should act with judgment and caution. He must be satisfied,—

1st. That the witness for whom fees are claimed has actually been paid, not that he *is* to be paid.

2nd. That he actually attended and was present in court when the case was under investigation, and ready to be examined if called, though he might not have been actually examined.

3rd. That he was a material and necessary witness, of which the fact of his being examined before the judge would be sufficient evidence, unless the judge should state that what he had to testify had nothing to do with the case, or, for any other reason order, that he should not be allowed witness fees. If the witness were not examined, and no order made by the judge on the subject, it would devolve upon the clerk to exercise his judgment as to whether the evidence of the person could be considered material or necessary. To satisfy himself on this point it would generally be necessary for him to have before him the statement on oath of the plaintiff or defendant, and such other evidence and explanations as could be adduced.

4th. That he attended only in the one case in which fees are claimed, for if he was a witness in more than one, the fees paid to him should be apportioned amongst the different suits.

5th. That the sums paid are within the scale allowed in the schedule (form 14), or in the Superior Court tariff, as the case may be, or are in accordance with the terms of any special order that the judge might make.

If the witness travelled by rail or other public conveyance, the judge would probably order that he should only be allowed his actual travelling expenses, if such sum were less than the 6*d.* a mile *one* way, allowed by the tariff.

In nearly every case the clerk will find it to his advantage, both for his information and as a protection against fraud to insist upon the production of an affidavit of disbursements by the plaintiff or defendant claiming witness fees. Such affidavit may be in the form 14 (a) given in the schedule."

And again, note (*c*) to section 175, respecting interpleaders,—

"An interpleader issue is not strictly a suit or action, it is in fact an interlocutory proceeding in another suit, wherein the court is subsequently