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1880

MINUTES AND PROCEEDINGS.

TORONTO, JULY 21st, 1880.

GENTLEMEN:—

Allow me to congratulate you on being permitted once more to meet together for mutual advice, consultation and improvement, also that since your last meeting there have been no blanks left in your ranks, and that on this occasion it does not devolve upon you to record in your minutes the departure from amongst you of any familiar face and form, as it was your melancholy office to do when we last met. I will now proceed, as on the last occasion, to draw your attention to a number of matters with respect to which I have been called upon to give advice and direction since I last had the pleasure of addressing you.

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The Sheriff is not entitled to affidavit of service on serving a County Court Writ of Summons.

If a Plaintiff has a verdict in a case for any amount he is entitled to the Record and carriage of the case; and when the verdict is so small as to substantially entitle the Defendants to costs, if Plaintiff fails to proceed and enter his judgment within a reasonable time, the Defendant may call upon him either to enter judgment, or bring the Record into Court, so that the Defendant may proceed to enter judgment for him, the Plaintiff, and himself the Defendant. If then, the Plaintiff declines to enter judgment, or to bring in the record as required by the Defendant, the Defendant may apply in Chambers to force him to do so.

X Sheriffs fees with Jan and Feb. Dea Courts not to Com. G. O. C. 186

Under R. S. O. Chap. 50, Sec. 347, Sub-Sec. 3, where a plaintiff sues in the County Court, and recovers a verdict within the jurisdiction of the Division Court, and fails to get a certificate for costs, the Defendant is entitled to tax his costs of suit as between Attorney and Client, and so much thereof as exceeds the taxable costs of defence that would have been incurred in the Division Court, shall, on entering judgment, be set off against the Plaintiff's verdict and costs, &c. Under this, a motion made by the Defendant for a new trial, though unsuccessful, is part of Defendant's costs of *suit*, and should be allowed accordingly as such, his failing in the application makes no difference, as you see he fails in his whole defence also.

I had thought that the amount Sheriffs were entitled to for service of Writs of Summons in Superior and County Courts was now well understood, but it seems from one communication I received, that they are not yet. For service in Superior Courts, he is entitled to Receiving 25c., Service \$1.50, Affidavit, 25c., Return 50c., Commissioner 20c., Total \$2.70; add to this mileage at 13c. per mile, and \$1.50 for service of each defendant after the first, and you have all that can be allowed. For service in the County Court he is entitled to Receiving, 10c., Service \$1.00, Return 25c., Commissioner 20c., Total \$1.55; add to this mileage and service of each additional defendant, and you have all that can be allowed.

Money paid into a County Court as security for costs, does not necessarily bear interest except in the County of York, as R. S. O.

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