

If the garnishee dispute his liability.

Payment by garnishee to discharge him.

whom such writ of execution shall be directed shall be thereby authorized to levy and shall levy the amount mentioned in the said execution towards satisfaction of the judgment debt together with the costs of the proceeding to be taxed, and his own lawful fees; but if the garnishee dispute his liability, such Judge may order that the judgment creditor in the said County Court shall be at liberty to proceed against the garnishee, according to the practice of the said Division Courts, for the alleged debt or for the amount due to the judgment debtor if less than the judgment debt, and for costs of suit; and payment by or execution levied upon the garnishee in any such case, shall be a valid discharge to him as against the judgment debtor to the amount paid or levied, although the proceeding may be set aside or the judgment reversed.

And with respect to Commissions for the examination of witnesses, Be it enacted as follows:

In what cases a Commission may issue for the examination of witnesses.

V. When the plaintiff or defendant in any action now pending or hereafter to be brought in any of the said County Courts, shall be desirous of procuring the testimony of any aged or infirm person resident within Upper Canada, or any person who is about to withdraw himself or herself out of the same, or who is residing without the limits of Upper Canada, it shall and may be lawful to and for any of Her Majesty's County Courts or for any Judge thereof, in vacation, upon hearing the parties upon the motion of such plaintiff or defendant, to issue one or more Commissions under the seal of any such County Court to one or more Commissioners to take the examination of such person, due notice being given to the adverse party to the end that he may cause such witnesses to be cross-examined.

Provision in case the witness be not in Upper Canada.

VI. In case of witnesses residing without the limits of Upper Canada, such Commission or Commissions, with the examination of the witness or witnesses taken pursuant thereto returned to such County Court, with an affidavit of the due taking thereof thereto annexed sworn before and certified by the Mayor or Chief Magistrate of the City or place where the same shall or may be taken, close under the hand and seal or hands and seals of one or more such Commissioners, shall be taken *prima facie* to have been duly executed and returned and shall be received as evidence in the said cause: Provided always, that such examination or examinations shall not be read or given in evidence in the said cause in case the deponent or deponents respectively shall be living within Upper Canada, and of sound mind, memory and understanding at the time such examination or examinations shall be offered to be given in evidence, and provided it is made to appear to the Court before which such examination or examinations is or are put in, that the same has or have not been duly taken.

Proviso: examinations not to be used in certain cases.