

The interpleader proceedings are for the benefit of the sheriff, and he is in the same position as if he was a party to suit. Rule 13 of *The Judicature Ordinance*¹ provides that service of a writ of summons may be made by the sheriff, his deputy or bailiff, or by any literate person other than a plaintiff, but no fees are allowed to such last mentioned person except by order of a Judge. The intention of this rule is that no plaintiff shall be allowed to serve a writ of summons, and, in my opinion, the spirit of that provision is not altered when the sheriff happens to be a party to the action. The definition of the word "sheriff" is given in section 2, sub-section 13, of the Ordinance, and includes coroner or other person performing the duties of sheriff. In cases where the sheriff is interested a coroner performs his duties. In this case the service of the interpleader summons was effected by the sheriff's officer, and there is no Judge's order allowing the fee.

Judgment.

Wetmore, J.

As to sheriff's review; I am of opinion that the letter from the agent advising of enlargement to 27th was, under the circumstances of this case, warranted; also the letter advising that the argument had taken place and that the Judge had taken the matter into consideration. I think that a careful agent would write such a letter, but I do not think it was necessary to attend the client to advise him of that fact. Attending to bespeak and for order would be proper under ordinary circumstances, but as a matter of fact the sheriff's advocate drew the order; he was allowed for that by the clerk, and he attended to get it signed, and that was the only attendance really necessary under the circumstances, and he has been allowed it; he cannot get it twice. The other items complained of were properly disallowed.

The clerk's taxation will be altered by disallowing \$6.55 and adding \$1.04.

Order accordingly.

¹ C. O. 1898, c. 21.