

When the defendant appeared, he should make his answer to the plaintiff in writing, and either in the French or English language, as he thought proper: and his answer should of course, and without the judge's approbation of it, be filed amongst the records of the court. And then (as it is not probable that the plaintiff and answer would be drawn so ably, in this country of dulness and ignorance, as to affirm and deny clearly and pointedly the several facts mentioned in them) the judge himself should interrogate the parties concerning those facts which were material to the decision of the cause, in their account of which the contending parties seemed to differ: and the interrogatories made to the contending parties, and the answers made to them by the parties, should be reduced to writing by the judge, or by the clerk of the court, from words dictated to him by the judge. And when the judge had thus found out in what points of fact, material to the decision of the cause, the parties differed, he should himself state these facts in writing, and declare to the parties, that it was necessary for him to be informed by proper testimony whether they were true or false; and should thereupon ask the parties whether both, or either of them, desired that he should inquire into the truth of those facts by means of a jury, or by examining witnesses, or other proofs, himself.

The issues, or facts, in which the contending parties disagreed, should be drawn up in writing by the judge.

If both, or either of the parties desired to have a jury, a jury should be summoned to attend at such following session of the court as the judge should appoint. This jury should be paid for their attendance by the party at whose request they were summoned; and if both parties desired to have a jury, then equally by both parties. They should receive about five shillings Sterling a man. For at present it is a subject of complaint among the Canadians that they are taken from their necessary occupations to attend upon juries (which is by no means an agreeable employment to them) without any consideration for it; and this, if it happened every week, and without any compensation, would be thought (and perhaps justly) a very heavy burthen. But for a reward of five shillings they will serve with great alacrity.

Juries to be summoned at the desire of either of the parties. They should be paid for their attendance.

These juries should be appointed in, nearly, the same manner as special juries are in England: that is, the sheriff should present to the court a list of four times as many persons qualified to be jurymen as were.

Manner of appointing the juries.