

1884

MINUTES OF MEETING
OF THE
COUNTY COURT
CLERKS' ASSOCIATION

HELD AT
OSGOODE HALL, TORONTO,

AUGUST 27th, 1884.

TORONTO:
PRINTED BY "GRIP" PRINTING AND PUBLISHING COMPANY.
1885.

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MINUTES
OF THE
EIGHTH ANNUAL MEETING
OF THE
COUNTY COURT CLERKS' ASSOCIATION,

Held at Osgoode Hall, Toronto. 27th August, 1884.

Present :—M. B. Jackson, Esq., President ; Messrs. Eagar, Campbell, Canfield, Fraser, Featherston, Grace, Gemmill, Gunn, Inglis, Maloney, Mitchell, McDonald, McDougall, McLaren, McLaws, McGill, McGuinn, Northrup, Rice, Stevenson, Twigg, Willson.

President in the chair.

Minutes of last meeting were confirmed, having been printed and distributed.

Letters were read from Messrs. Reynolds' and Thompson, regretting their inability to be present.

Treasurer reported \$43.56 on hand, and stated there were unpaid accounts

On motion of Mr. Twigg, seconded by Mr. McLaren, M.B. Jackson, Esq., was re-elected President.

On motion of Mr. McGuinn, seconded by Mr. Willson, Mr. Northrup was re-elected Secretary and Treasurer.

Questions relating to uniformity of practice in Clerks' Offices, especially differences in taxation under same tariff in Chancery and Common Law Divisions, were discussed, several Clerks stating that, owing to higher fees being taxed by Masters in Chancery, business was taken into that Division.

On motion of Mr. McLaws, seconded by Mr. Stevenson, agreed that the President's address be now read, and members be allowed to ask questions arising out of it, and speak to questions proposed.

TORONTO, August 27th, 1884.

1884

MINUTES OF THE EIGHTH ANNUAL MEETING

Address.

GENTLEMEN,—I hope on this, the occasion of our eighth annual meeting of our association, we can look back on the eight years that have past, and that on doing so we may find that some benefit has accrued to its members from the formation of the associations I hope by our mutual consideration of the various subjects that have been brought before us we have acquired a much greater knowledge of the duties we are called upon to discharge in the interests of the Public and of the Profession through which it acts. I think we have found that the bringing of a joint combined consideration and experience to bear upon the points arising before us enables us to arrive at a much more satisfactory solution of our difficulties than could possibly be arrived at were we acting as before, disjointedly and without union; then again it affords you a means by which you can much more effectually bring any reform desired or grievance to be remedied before the proper authorities to whom application in that behalf should be made; besides, it seems to me, we derive no slight advantage from these re-unions by our being brought into direct contact with each other by our being brought personally to know each other, and by the kindly intercourse which arises therefrom.

Order as to Examinations.

I can congratulate you on the Order that has been passed by the High Court of Justice since our last meeting in reference to examinations. I think it will, in a very great measure, remedy the grievances under which you previously laboured, though I am afraid in some few instances its intention may be frustrated, but I hope that the means by which this can be effected will be resorted to by very few and that on the whole you will substantially derive the benefit intended by the Order.

Minutes of 1883.

I am glad to be able to think, from communications from a number of clerks, that the Minutes of our last meeting and its accompanying index have been of material benefit to you. I requested that any error you should discover would be pointed out to me. I have had only one brought to my notice; that is at page 16 in the Bill of Costs on a judgment, by default, the copy of the writ of summons was omitted. This error, I am glad to say, was so palpable as, I am sure, not to mislead any of you. I have found the index very useful to myself; a large number of communications from clerks I have been able to answer by a reference to the index and the parts or pages of the addresses referred to in it; using it in this way is a very good test of its completeness, and I have only found one or two instances in which it required alteration or addition, and these I will remedy in the index of this meeting's Minutes. I would be glad if any of you have found the index defective you would let me know before the printing of these Minutes, so that I may be able to make the necessary corrections.

The Minutes of last meeting were not sent out until late, but I have to ask you for forbearance in this matter; there was a great deal to look after in connection with them and particularly the index had to be completely done over before I could give it to the printer, besides I had a great press of my own duties. After it was given to the printer his delay was most unreasonable, so much so that I at last threatened to apply to the Attorney General for leave to withdraw the whole matter from his hands.

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I hope the present printer will be more expeditious. You must remember that per contra the printing costs us nothing and I hope the matter is worth waiting for. I intend trying this year to send it out with as little delay as possible.

I would now draw your attention to some points upon which gentlemen seemed in doubt and consulted me.

Where there are several Defendants, and final judgment by default, several Defendants. Judgment by default, several Defendants. The judgment is signed against one, it should be at once entered in the judgment book, and when the proper time has elapsed execution can issue on it and so on against each Defendant as the time expires for entering a defence without a defence being entered, the time limited in each case of course expiring at different periods. You will see the necessity of this, as the judgment is not entered until its insertion in the judgment book; I thought this was made clear enough at 13/83, but now I hope it will be perfectly so.

If an amount is endorsed on a writ as a demand for costs the Writ, amount Defendant can pay the debt and costs as claimed and get a discharge, endorsed for costs. but if Plaintiff has to sign judgment in the case he gets his taxable costs irrespective of amount indorsed.

If money is paid into court in an outer office by Sheriff or Money in Court. otherwise, it is best to specially deposit it in the bank at such rate of interest as can be obtained for it, and when it comes to be paid out the deposit receipt can be endorsed over to the party entitled to receive it, which will of course carry with it all interest that has accrued on it.

When there are two Defendants, one in and the other out of the jurisdiction and both appear by the one Solicitor, they are entitled to a praecipe order for production. I don't see what could have raised a doubt as to it.

A witness, who is an advocate from Montreal, or a solicitor or counsel from any other country, say the United States, giving evidence, owing to professional services rendered, would be entitled to \$4 a day witness fees. Witness fees, Professional.

A Plaintiff came from Portage La Prairie to Brampton and sought to be allowed his fees on taxation as a witness in his own behalf. Defendant sought to enlarge the entry of judgment until he could examine the Plaintiff on his affidavit; the Plaintiff being now in Portage La Prairie, it happened that the Plaintiff's affidavit was insufficient to obtain the fees on, but if it were otherwise I advised that to obtain such fees he should show: 1st, that he was a necessary and material witness; 2nd, that he gave evidence; or, if not, then that he showed some good and sufficient reason why he did not, the same as any other witness subpoenaed but not examined would be required to show before his fees would be allowed; 3rd, that he came solely for the purpose of giving such evidence and on no other business, and that he only attended such trial for the purpose of giving such testimony, and that he would not have attended such trial were it not that it was necessary to give evidence in his own behalf; this being done if he gave evidence the officer should examine same and see whether it was of a character to bear out the affidavit; if not, the fees should be disallowed; if yes, the fees should be allowed; besides this the officer should consider whether the testimony could as

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Commission. well have been taken by commission, or whether it was of such a nature as to require to have been given orally; if the former, then whether a commission would have been to a material extent a cheaper mode of taking the evidence; if so, I would allow the probable costs of the commission, but I would only do this when the difference was material. As to cross examining the Plaintiff under such circumstances on his affidavit, I think I would leave Defendant to make an application in Chambers for leave to do so, and for a stay of proceedings.

Discontinuance Writ not served. When a writ was issued but not served, and Defendant entered an appearance, and Plaintiff took no step in any way recognizing the step taken by Defendant but afterwards discontinued, I do not think that Defendant would be entitled to instructions to defend.

Final judgment, how vacated. When a final judgment has been signed it can only be got rid of by an order; any consent given to set it aside can only operate as a consent for an order for that purpose.

Interpleaders' High Court case, order to try in County Court, Costs, etc. Where an order issues out of the High Court for the trial of an interpleader issue in the County Court, the proceedings are carried on in the County Court, and all charges of the issue are County Court charges.

Term fee, judgment by default. On signing a judgment on a specially endorsed writ for want of an appearance for damages no court or term fee should be allowed.

Sheriff seizures, by direction of Plaintiff, his fees. When a Sheriff received a *fi. fa.* goods, and by direction of the Plaintiff travelled 42 miles to make a seizure and found that there was nothing to seize and had to return the writ N.B., the Plaintiff would, I think, be liable to the Sheriff for his usual charges for mileage.

Appointment to examine by Local Registrars. A Local Registrar can, under Section 159, page 641 R.S.O., issue an appointment to examine in a case in the Chancery Division; this being an Act of Parliament applies to the High Court of which the Chancery Division is a part; also a Local High Court Judge can grant an order to examine in a Chancery Division case under Section 157, this power having been specially given under Section 76 of the Judicature Act.

Arrest, Mileage, Service. In the Common Law Divisions a Sheriff can only get mileage on going to arrest—but in the Chancery Division he can get mileage going to arrest and returning with the prisoner; he is not entitled to one dollar and fifty cents for service of a copy of the writ on the party arrested, this is a part of the arrest.

Amendment, who to make under order. When an order is made permitting a party to a suit to amend say a pleading, the onus rests on the party obtaining it to act on it and procure the amendment to be made; unless he does so the pleadings remain as they were and you must treat them so; for instance, if you were certifying the pleadings you should certify them as they are without respect to the order for amendment—if not acted on because there has been no amendment made and no fees paid for an amendment.

Marking exhibits allowance. Items 128, 129 and 130 are taxable to parties when affidavits are made referring to exhibits not attached to the affidavit—if the exhibits are attached to the affidavits then these items do not apply.

1884

OF THE COUNTY CLERKS' ASSOCIATION.

Papers filed in Chambers may sometimes have to be brought into Court. Such as if an order is made for an attachment the order is generally endorsed on the papers; these papers on issuing the attachment must be filed in Court; formerly it was necessary to file these in Chambers, when the fees were paid the Clerk, and subsequently when the writ was issued they were filed in the Court and stamped. Since the Judicature Act papers when once filed in a cause are considered filed for all purposes, times and places in the Court, and I would advise you not to charge a second filing. I would simply, when they are required in Court for such a purpose, put on the stamps out of the filing fees in Chambers in case any question arose and thereby avoid bringing up the question of stamps in Chambers. I am sure it will not be to your interest to have this question brought up.

Chamber filings.

When asked to give an appointment to tax Sheriff's interpleader costs the order or a copy of it, under which the taxation is to take place, should be produced to you and a copy of the order should be filed with you on the taxation.

Sheriff's interpleader costs.

Under the Judicature Act I think a taxation of a bill of costs between Solicitor and Client under an order is a reference, to the fees of which the Clerk is intitled to his own use.

Taxation, Solicitor and Client, a reference.

I do not think a Retainer can be taxed in England but in Canada it has always been taxed when it is shown that the case justified such a charge in fairness, and that the client agreed to pay it and at the time he did, so he was informed by his solicitor that it was a fee that could not in any event be recovered from the other side. The amount of the retainer should be stated, otherwise it is very unsatisfactory; but I suppose that even where no amount is stated the officer would have a discretion in a case clearly justifying such a charge to fix a reasonable amount.

Retainer, allowance of.

If a Solicitor obtains a copy of an examination for his own use not for purpose of proof I do not think he should be allowed for copying out this copy in his brief; he should annex the copy and thereby make it part of his brief.

Copies of examinations, briefs.

No allowance is made for affidavit of service of notice of trial.

Notice of trial, affdt. service.

One affidavit is allowed of service of notice to admit and produce, not two, as they should be served at the same time; there may possibly be an exception to this but it is a very rare one.

Notice to admit and produce affidavit of service.

Where an order is made to amend, say, a writ appearance statement of claim, etc., each must be amended and a thirty cent amendment stamp put on each; but any number of amendments may be made of the one paper and only one stamp should be charged.

Amendments of several pleadings, etc.

Where a case is tried without a jury and the Judge merely non-suits without any further direction it is a question whether or not Defendant is entitled to enter a judgment; he may perhaps be so under Rule 330, and I would enter it if required, but unless the Judge has expressly ordered the Plaintiff to pay the Defendant his costs the Defendant gets none and no judgment can be entered for any.

Non-suit order for judgment, costs.

1884

Chancery action, Common Law Division. Deputy Clerk, power of.

In an action brought of a Chancery nature—say to foreclose in a Common Law Division—a Deputy Clerk of the Crown has all the powers of a Local Registrar, or rather I had perhaps better say of a Registrar of the Chancery Division, and can make the order, under Rule 78; no division has any exclusive jurisdiction as to actions and each can exercise all the powers of the others, so can the officers of the respective divisions.

Jury notice. Entry of cause as non-jury.

If a jury notice has been given in a case it can only in strictness be got rid of as provided by Cap. 50, Sec. 254, s.s. 2. and Sec. 255, R.S.O., but if parties have settled the case and merely desire a pro forma verdict, I think the officer would exercise a sound discretion in letting it be entered as a non-jury case on a statement to that effect being endorsed on the C.C. of proceedings.

Item 116, joinder of issue.

Item-116 of tariff covers all the pleadings in an action. Joinder of issue is not provided for by the new tariff and it can only be allowed for by applying the old tariff to it.

Judgment by default and execution. A. Verdict against B. and C. Costs of first judgment.

Where an action is brought against A. B. and C., judgment by default is entered against A. and execution issued and returned N. B., a judgment is recovered at the assizes against B. and C. I see no means by which the costs against A. can be included in the judgment against B. and C.

Reference to arbitration. Jury and non-jury costs.

Where a case is brought down to the assizes and a verdict is taken, subject to a reference to be increased or reduced, etc., by the Referee, costs to abide the event and the Referee found for an amount within the jurisdiction of the Division Court; if it was a jury case Plaintiff would get Division Court costs of the cause, and High Court costs of the reference and award, because Rule 112 makes the Common Law Procedure Act apply when there is a jury; but if it was a non-jury case and the verdict was rendered by the Judge, subject to the award, then the costs were solely and entirely in the discretion of the Judges, and the C.L.P. Act, Sec. 347, did not apply in any way, and if the Judge being a party to the reference he was also a party to the costs abiding the event, and I think it must be considered that he exercised his powers over the costs by ordering them to abide the event of the award to which also the parties to the suit are consenting parties, and inasmuch as the event has been in favour of the Plaintiff he must be held to be entitled to full High Court costs. Where a Judge orders costs in an action it means the costs of the Court in which the action is brought irrespective of the amount recovered.

Chattel Mortgage, etc., filing out of office hours.

I do not think an officer can be compelled to renew and file a Chattel Mortgage or other document out of office hours, but if he chooses to file it he can do so.

Quo-Warranto Disclaimer costs.

In Quo-Warranto proceedings, where Defendant has duly disclaimed, he is not liable for costs, unless ordered to pay them. If ordered to pay them I do not think anything could be allowed for instructions for Brief or Brief, but if the circumstances justified it, the officer might, under the Quo-Warranto tariff, allow a \$10.00 fee on return of summons, but this would be a considerable stretch of discretion—no allowance is made for a bill, but I would apply the other tariff to it and allow one dollar.

1884

All papers in a Quo-Warranto proceeding must be regularly and properly filed. From some papers I have received it seems necessary to draw attention to this; if once filed they may be used on entering judgment without being further filed.

Quo-Warranto filings.

I would receive Chattel Mortgages by post and register them as I would register them of the hour at which the office opened next morning.

Chattel Mortgages, receiving by post.

Under Rules 366 and 369, it has been held in a case of *Meyers vs. Hendricks*, 19 Prac. Reports, 363, that the original appointment must be served.

Appointments, serving of.

A vesting order should be entered as a judgment in the judgment book, and the usual judgment fees charged, the officer must keep the order the same as a præcipe for judgment, it being his authority for entering the judgment and the document on which the stamps are put and obliterated, and without which there is nothing to show that the judgment itself is legal. I am particular on this point, because I know in the Chancery-Division they follow a different practice, and do not keep these orders or the præcipe for judgment. Why, I don't know—the order itself, of course, requires the usual fifty cent stamp—if it is wanted to show what is in this order to any other officer, a copy can be given for that purpose.

Vesting orders, judgment.

It does not follow that because a judgment has been set aside without costs, a Solicitor should not get the costs of it from his client; this, as all other claims made by a Solicitor, depends upon its own merits and circumstances. If the judgment was signed illegally, as say before its proper time or against good faith, I would not allow the costs of it as against the client, because it would shew gross ignorance or carelessness on the part of the Solicitor, the costs of which he should bear himself; but if it was legally signed and without any breach of faith or other misconduct on the part of the Solicitor, and it was set aside without costs, I would allow the costs to the Solicitor as against the client. You have to take all the circumstances together and determine the rights of the matter.

Proceedings set aside without costs. Costs, Solicitor and Client.

If a case is entered for trial, say at Cornwall, and is put off on payment of costs, and the venue changed to Brockville, the officer at Brockville is entitled to three dollars on the record being entered with him; he should also charge jury fees if it is a jury case. See 6/81, and 20/ and 34/81 and 20/82 and 9/80.

Change of venue. Entry for trial fees.

Action on promissory note. Defendant's appearance dispenses with statement of claim; case entered for trial at the Assizes, judgment for Plaintiff with costs of the simplest proceedings on which he could have recovered judgment; no statement of defence was put in. The simplest mode by which judgment could have been recovered in this case, was to have signed final judgment by default of a statement of defence under Rule 204; the rules bearing on this are 55 A, 158 B, 161 and 204; you will see that the wording of 161 is peculiar; the word "may" being used instead of "shall," but the whole context of the rule would, I think, show that "shall" is really meant because it says that "unless such time is extended by the Court or a Judge," which would be insensible if "may" was intended to be used or given

Judgment Costs. Shortest mode of getting.

1884

effect to. I would allow the costs as though judgment by default had been signed for want of a defence.

County Court copying papers, right to.

The copying of all papers and proceedings in the County Court is undoubtedly a perquisite of the County Court Clerk, and all I have said applying to Chattel Mortgages applies equally to the proceedings in the County Court.

Interpleader. Sheriff costs. Allocator, etc.

When a sheriff obtains an interpleaded order and proceeds to tax his costs under the Statute, I would allow charges in the bill for copies and services of the allocators on the respective Solicitors, though these services cannot be performed until subsequently to the taxation of the bill, because the sheriff is obliged by the Statute to make the services, and in default of his doing so he might lose his costs.

Service out of Province, allowance for.

When papers are legally served out of the Province, so as to be effectual and necessary for, and to some proceeding in the Province, a reasonable amount should be allowed for the service, including mileage, irrespective as to whether it has been served by a sheriff or not.

Application under 43 Vic. cap. 10, sec. 7.

An application under 43 Vic. cap. 10 Sec. 7, S.S. 8, must be in writing; on such application being made, and said sub-section 8 being complied with, the Clerk should make the entries required by S.S. 27.

Bill of Costs party and party. Charge for against client.

When a Solicitor recovers a judgment for a client and enters same, and in doing so makes out a bill of costs, he is entitled to charge for this bill in his bill against his client.

Booked agent, service on.

When a Solicitor living in Toronto enters an appearance for a client in St. Catharines, service could be made on any booked agent of such Solicitor in St. Catharines, and I would not allow any extra charge for serving in Toronto, in case of there being such booked agent at St. Catharines.

Witness Intoxicated. Allowance of fees.

If a party to a suit subpoenaed a witness, and he attended the trial in a state of intoxication, and was unable to give and did not give evidence on the trial, I would not allow the costs of such a witness against the opposite party.

Tariff Item 182.

Item 182 of tariff does not apply to the County Court, neither do remarks on the subject on page 4 of minutes of 81 apply to that Court.

Mileage, County Court, allowance of.

If a witness in a County Court case resides any distance whatever over five miles from the Court House, say five and a half miles, I would allow eleven miles travelling expenses, and this irrespective of the mode in which he travelled, either by walking, driving with a friend or his own conveyance; the ordinary allowance is ten cents one way, but you will see by the tariff he can be allowed up to twenty cents under special circumstances; if there was a regular mode of travelling, such as by rail, steamboat or stage, he would be entitled to his fare to the Court House and back, and his daily witness fees besides while travelling.

High Court case tried in County Court, allowance of the \$3.00. Brief in Chambers, allowance of.

When a Superior Court case is tried in the County Court under Administration of Justice Act, Sections 31 to 44., both inclusive, the Clerk is not entitled to the three dollar fee under Cap. 8, 44 Vic., Sec. 1.

I have never known a brief to have been charged for and allowed in Chambers, and I do not think it could be allowed, though there might be a very extraordinary case in which perhaps an officer might be justified in allowing it.

1884

When money is paid into Court as security for costs, it should Money paid into Court as security for costs.
 only be paid out on order. Regulations 25 and 26 do not apply to it at all, they apply to money paid in on pleas 2/and 3/80 apply to it—a book should be kept shewing the particulars of such payments in or out.

I am not sure what the effect of Sec. 159 C. L. P. Act is; that is, I rather doubt that a local Master in Chancery can give an appointment to examine in a Common Law case; it may be that he can, but I do not think that he can because the officers of the various divisions of the Court are confined to these divisions unless it is specially provided otherwise, and it is not so provided by this section as I understand it; the way to test the matter is to refuse to tax it or the examination taken pursuant to it, then the question may be brought up for decision before a High Court Judge and decided. I would be sorry to think that, even if this could be done, the benefit intended for the Clerks by Rule 543 will be materially lessened, as one can scarcely think that a County Court Judge would take advantage of the letter of Sec. 159 to violate the spirit of Rule 543.

Rule 544, item 2, does not, I think, allow anything more for notices on a specially endorsed writ than was allowed before; but in a case for a cause of action not the subject of a special endorsement,—an allowance can be made now for the notice of claim on it, which could not have been allowed previously—Item 6, I certainly would not allow for perusing a joinder of issue.

As to Rule 544, item 1, I don't desire to say anything, as I do not feel called upon to do so; if I were, I do not think there could be two opinions as to what should be said. All I desire to say now is that I will endeavour in the future, as in the past, to give you any information I can on this or any other subject that you may desire to consult me on. But I am afraid I may very likely conflict with what may be held or ruled by the gentlemen named in this item, and only a direction of a Judge or the Court can settle the matter.

There is a matter I would like to refer to here; sometimes owing to an alteration in the law or a new provision of it, a new book becomes necessary, such as the book rendered necessary by the Creditors' Relief Act. When these books are made separately they are very expensive; when all are made by the one party a considerable reduction in price is made. I would suggest that when such a contingency arises each of you send me an order for the book, to be directed by me to any stationer I should choose; then if I had thirty-six or forty orders I could, I think, get it for each of you at a much more reasonable rate than you would be at all likely to get it separately. This is a matter for yourselves to determine as to what would be most advantageous to yourselves.

Item 59 of tariff is only allowed when appearance is entered after the date on which it is due. Tariff item 59.

Under Rule 283 the examination can be had on a subpoena without a Judge's order. Examinations on affidavit.

I, for a long time, took it for granted that the solicitors were not only able but also solicitous to protect their clients from paying more for Surrogate fees than the law required, but a large number of instances to the contrary having forced themselves upon me, I have examined the charges of a number of Surrogate fees.

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Examinations
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Tariff Rule
544, item 2.

Item 6.

Item 1.

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books.

1884

MINUTES OF THE EIGHTH ANNUAL MEETING

Clerks, and have found them in almost every instance too much, and in a number of instances excessive to a large degree. To remedy this in the future, I have hereunder made out a table of fees to which Judges, Clerks, and the stamp fee fund are entitled to exact in cases of Probate, Administration, and Guardianship, and in the future I will both hope and expect that gentlemen will govern themselves accordingly, as no other fees than the above can be legally required or taken.

	\$1,000 or under.	Over \$1,000 and under \$1,250.	\$1,250 and not exceeding \$2,000.	Over \$2,000 and not exceeding \$3,000.	Over \$3,000 and not exceeding \$4,000.	Over \$4,000 and not exceeding \$5,000.	Above \$5,000.
<i>Under Schedule A.</i>							
Stamp Fund—	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
Application.....	0 50	0 50	0 50	0 50	0 50	0 50	.....
Certificate.....	0 50	0 50	0 50	0 50	0 50	0 50	.....
Seal.....	0 50	0 50	0 50	0 50	0 50	0 50	.....
Grant.....	0 50	1 00	1 00	1 50	2 00	.....	.....
	2 00	2 50	2 50	3 00	3 50	.....	.....
<i>Under Schedule B.</i>							
Judges' Fees—							
Order for Probate.....	0 50	0 50	0 50	0 50	0 50	.....	.....
Order for Inventory when granted.....	0 50	0 50	0 50	0 50	0 50	.....	.....
Fee on Grant.....	2 00	2 00	3 00	3 00	4 00	.....	.....
	3 00	3 00	4 00	4 00	5 00	.....	.....
Registrars' Fees under Tariff—							
Receiving and entering Application.....	0 50	0 50	0 50	0 50	0 50	0 50	0 50
Receiving and entering Certificate of Surrogate Clerk.....	0 10	0 10	0 10	0 10	0 10	0 10	0 10
Preparing all necessary Affidavits (whether prepared by Clerk or not).....	1 00	1 00	1 00	1 00	1 00	1 00	1 00
Administering Oaths, say 5, if actually administered by Clerk.....	1 00	1 00	1 00	1 00	1 00	1 00	1 00
Fee on Grant of Probate or Administration (includes recording).....	1 00	1 00	1 75	1 75	1 75	2 50	4 00
Recording Will, 10c. per folio, say 10 folios.....	1 00	1 00	1 00	1 00	1 00	1 00	1 00
Probate or Administration under Seal.....	0 50	0 50	0 50	0 50	0 50	0 50	0 50
Transcript of Will attached thereto.....	1 00	1 00	1 00	1 00	1 00	1 00	1 00
Copy of Will for Surrogate Clerk.....	1 00	1 00	1 00	1 00	1 00	1 00	1 00
Certificate of Transcript for Surrogate Clerk.....	0 50	0 50	0 50	0 50	0 50	0 50	0 50
Notice of Grant to Surrogate Clerk.....	0 25	0 25	0 25	0 25	0 25	0 25	0 25
Postage actually paid, say.....	0 24	0 24	0 24	0 24	0 24	0 24	0 24
	8 00	8 00	8 84	8 84	8 84	9 50	11 00
Totals.							
Stamp Fund.....	2 00	2 50	2 50	3 00	3 50	.....	.....
Judges' Fees.....	3 00	3 00	4 00	4 00	5 00
Registrars' Fees.....	8 00	8 00	8 84	8 84	8 84
Total.....	13 00	13 50	15 34	15 84	17 34

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1884

OF THE COUNTY CLERKS' ASSOCIATION,

If renunciation is necessary, the Clerk would be entitled to \$1 for it. In administration cases, Clerks will be entitled to bond \$1, and the Judge to 50c. for order approving of bond, in addition to the above table of fees; and, of course, all additional orders made by a Judge, in addition to those mentioned above, would require an extra fifty cent stamp.

The above table gives the totals of all the fees in Probate and Administration matters uncontested up to and inclusive of \$4,000 personalty. For every \$1,000 or part thereof in addition, there must be added \$1 for the Judge, and fifty cents for stamp fund. When the personalty is over \$4,000, and does not exceed \$8,000, you must add seventy-five cents for Registrar's grant fee; and if the personalty exceeds \$8,000, you must add another one dollar and fifty cents to the Registrar's grant fee. After this amount is reached, his grant fees do not increase—that is,

When personalty does not exceed \$4,000, Registrar's grant fee is	\$1 75
When personalty exceeds \$4,000, and does not exceed \$8,000, his fee is	2 50
When personalty exceeds \$8,000, his fee is	4 00

Probate and Administration apply only to personalty, and reality is not taken into account, even when devised to executors to sell. This you will see fully treated of in Minutes 20/80 and 6/83.

In cases where the property of the deceased, real and personal, is under \$200, the fees chargeable would be: Registrar, one dollar and fifty cents, and Judge, fifty cents.

The following are the proper charges on granting Letters of Guardianship:—

	Registrar's Fees.	Judges' Fees.	Law Stamps.
<i>Under Schedule A.—Stamp Fund—</i>			
Application	\$ c.	\$ c.	\$ c.
Certificate of Surrogate Clerk .....	.....	0 50	1.50
Letters of Guardianship with Seal .....	.....	0 50	0 50
<i>Under Schedule B.—Judges' Fees—</i>			
Order for Grant .....	.....	0 50	.....
Order for Schedule (if any) .....	.....	0 50	3.00
Order Approving Bond .....	.....	0 50	.....
Appointment of Guardian .....	.....	2 00	.....
<i>Registrar—</i>			
Receiving and entering Application	0 50	.....	.....
“ Certificate of Surrogate Clerk	0 10	.....	.....
Preparing papers	1 00	.....	.....
All Oaths actually administered by Clerk (say 5)	1 00	.....	.....
Bond	1 00	.....	.....
Grant under Seal	0 50	.....	.....
Notice of Grant to Surrogate Clerk	0 25	.....	.....
Grant of Letters according to value of personalty (say \$5,000)	2 50	.....	.....
Postage actually incurred (say)	0 24	.....	.....
Totals	7 09	3 50	1 50

1884

If renunciation is necessary, then Registrar is to get one dollar extra.

Neglected directions.

There are several matters, with regard to which explicit directions are given in the Minutes, and which are violated by all except a few officers—

First. Enter on the certified copy of pleadings the date of its receipt, and sign the entry. This is attended to by very few, and its omission occasions considerable inconvenience.

Second. When papers are wanted for use before the Taxing Officers at Toronto, send same to "The Taxing Officers, Toronto," not to the Registrar.

Third. When papers are wanted for use in Chambers, send same to "The Clerk in Chambers, Toronto," not to the Registrar.

The omission to observe these directions occasions inconvenience and confusion.

Surrogate tariff, change of.

The Surrogate fees, since I came to examine them, strike me as inadequate, and that the tariff is very defective. I have been endeavouring to get an alteration made in your favour since our last meeting, but two of the Commissioners having died, nothing could be done until another was appointed. I am happy to say that I have received a communication from the Attorney-General's office, in answer to one from me to him, on the subject that it is his intention, by legislation, to confer on the Supreme Court the same power as to making tariffs in Surrogate matters as they have in High Court matters. When this is done, I hope we will be able to get the tariff changed favourably to ourselves.

Quarterly Returns, Envelopes.

When sending for blank quarterly returns and for envelopes, please send to the Clerk of the Progress direct, not to me.

If any gentleman discovers any error in the above table he would oblige by drawing my attention to it.

County Court Tariff.

I congratulate you on the fact that since our meeting a County Court tariff has been issued. I hope it will be found satisfactory, but know nothing of it personally except that it does not touch the clerks' fees. This I am sorry for, but am afraid that when the matter was in progress these fees were not kept under the attention of the Judges. The matter was not in my hands or I would have seen to it. I was fully under the impression that it was being actively pushed, and rested satisfied. When the Surrogate fees are brought under the notice of the Judges the County Court fees can also be brought under their notice at the same time. I am informed that the C. C. Judges submitted no amendment of Clerks' fees to Supreme Court Judges, and the initiative being with the C. C. Judges, the Supreme Court Judges could do nothing in it, indeed, it was not even brought to their attention when revising the Solicitors' Tariff.

Rules 545, 546, 547.

A question has arisen under rules 545 and 547 as to who is entitled to the fee on filing copy of writ in Chancery Division when writ issued by a Deputy Clerk of the Crown, and I have thought it best to embody the answer in these Minutes as it may save trouble.

Fee on filing copy of writ.

The Deputy issues the writ. The fees necessary to do so must be paid in stamps. It is necessary to the issuing of the writ that the copy of the writ should be filed with the officer issuing

1884.

OF THE COUNTY CLERKS' ASSOCIATION.

15

it. To be filed it must first be stamped. The officer issuing the writ must "forthwith" transmit the copy to the Deputy Registrar. On such transmission he is to receive it, not necessarily to file it, and I do not think such reception carries with it any fee, nor would his filing it do so because the filing is unnecessary. As to transmission, that is thrown upon the officer issuing the writ with whatever the doing so involves. Who to transmit.

Notwithstanding the very doubtful wording of Rules 546 and 547, the proceedings should in Chancery cases be carried on in the Deputy Registrar's office. Where proceedings carried on.

M. B. JACKSON,

President C.C.C.A.

Work of committee during the year was taken up.

Re tariff for C.C. and S.C. and Rule 543. The prospect is now good for a C.C. tariff, the judges having about fixed on one, as no power had been given them to make a tariff for S.C. it would be necessary to have a commission or authority given them to do so.

On motion of Mr. Northrup, seconded by Mr. McDonald, Mr. Grace was requested to continue acting and perfect C.C. and S. C. tariffs, and look after Legislation where necessary, with power to employ such assistance as he may think proper.

On motion of Mr. McGuinn, seconded by Mr. Wilson, the Treasurer was authorized to pay Messrs. Grace and Gunn their expenses incurred on business of the Association.

Moved by Mr. Gunn, seconded by John Twigg, that the thanks of this Association are due and hereby tendered to M. B. Jackson, Esq., our President, for the annual address just read, containing so much information in reference to the business of our offices; his continued interest and labours in generally promoting the objects of the Association; his consideration and readiness on all occasions to impart information and instruction on points of doubt or difficulty arising from time to time, and his diligence and zeal in the direction of uniformity and efficiency. Carried by a standing vote.

On motion of Mr. McDougall, seconded by Mr. Maloney, a vote of thanks was tendered the Secretary for his services. Adjourned to meet at the Rossin House at 7.30 p.m.

1884

ROSSIN HOUSE, 7.30 P.M.

President being absent, Mr. Wilson was requested to act as Chairman.

FINANCES.—Treasurer stated a good number of Clerks had not paid the annual subscription of \$1, although the Minutes of Meetings had been sent to them regularly, and money would be required to meet the expenses incurred in procuring C.C. and S.C. Tariffs and other matters in connection with the Association.

Moved by Mr. Gunn, seconded by Mr. McLaws, that Messrs. McGuinn of Napanee, and John Twigg of Picton, be associated with the Secretary for the purpose of communicating with such Clerks as have not been waited upon, and collecting any arrears of the annual fee that may be due, in order to meet expenses incurred in the interest of the Association, and that in case additional funds should be required then the said committee shall levy an assessment on the members for such further sum as may be required. Carried unanimously.

On motion of Mr. Grace, seconded by Mr. McLaren, Messrs. McGuinn, Gunn, and the Secretary were appointed a committee to consider propriety of and arrange for a trip in connection with and at the close of our next annual meeting.

On motion of Mr. McGuinn, seconded by Mr. Rice, agreed to hold next meetings in Osgoode Hall, City of Toronto, 3rd Wednesday of July, 1885.

A. G. NORTHRUP,
Secretary C.C.C.A.



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1884

INDEX TO MINUTES

OF

MEETING OF COUNTY COURT CLERKS' ASSOCIATION - FOR 1884.

A.

	PAGE
Address	4
Affidavit necessary for fees to party to suit	5
Appointment to examine Chancery Case Local Registrar	6
Amendment, who to make, when made	6
Appointment, Sheriffs, interpleader costs, what granted on	7
Affidavit of service of notice of trial, allowance of	7
Affidavit of service of notice to admit and produce	7
Amendments of several pleadings, etc.	7
Appointment, how served, rules 366 and 369	9
Application under 43 Vic., c. 10, s. 7	10
Agent, service on	10
Appointment, examinations, Common Law, Local Masters	11
Affidavit of justification, how attacked	7/83

B.

Briefs, copy of examinations in	7
Brief in Chambers, allowance of	10
Books, blank, obtaining	11
Blanks for quarterly returns, how obtained	14

C.

Costs endorsed on writ	5
Commission, for evidence, party to suit	6
Court fee, judgment by default	6
Costs, High Court Interpleader, tried in County Court	6
Chamber filings	7
Costs, Sheriff's Interpleader, Appointment to tax, what granted on	7
Costs, Solicitor and Client, reference fees on	7
Costs, retainer, allowance of	7
Chancery action, Common Law Division, power of Registrar	7

	PAGE
Costs, Judgment by default, verdict	8
Costs, reference to arbitration, jury and non-jury cases costs	8
Chattel mortgage, renewal of, after office hours	8
Costs quo warranto, disclaimer	8
Chattel mortgage, receiving by post	9
Costs, shortest mode of getting judgment	9
County Court, copying papers, right to	10
Creditors' Relief Act, application in writing	10
Costs, Bill on entering judgment, right of solicitor	10
Clerk, H. C. Case, tried in C. C., right to 3/	10
Chambers, brief in, allowance of	10
Costs, security for, money paid into Court	11
Chambers, papers for, how directed	14
Certified copy of proceedings, how marked, entries on	14
County Court tariff, new	14
County Court Clerk's fees, revision of	14
Chancery proceedings, where carried on	15
D.	
Discontinuance, writ not served	6
Disclaimer, quo warranto costs	8
Directions neglected, reference to	14
E.	
Examinations	4
Examination, appointment for in Chancery cases by Local Registrar.	6
Exhibits, marking same	6
Examinations, copies of, for briefs	7
Examinations, Common Law, Local Master, appointment by ...	11
Examination, Rule 283, Subpoena	11
F.	
Filings, Chambers	7
Filings, quo warranto	9
I.	
Indorsement on writ for costs	5
Interpleaders, where tried, what court, (costs)	6
Issue, joinder of, allowance for	8
Interpleader, costs of Sheriff's allocatur and service	10
J.	
Judgment by default, several Defendants	5
Judgment, how vacated	6
Jury notice, how got rid of	8
Joinder of issue, allowance for	8

	PAGE
Judgment, vesting order	9
Judgment, shortest mode of getting, costs	9
Justification, affidavit of, how attacked	7/83
Jury fees on entering case for trial	14 & 15/83

L.

Local Registrar, appointment to examine in Chancery case	6
Local masters, examinations, Common Law, appointment by	11

M.

Minutes, 1883	4
Money in Court, how to keep and pay out	5
Mileage to Sheriff, seizure by direction of Plaintiff	6
Mileage, returning with prisoner	6
Mortgage, chattel, renewal of, office hours	8
Mortgage, chattel, receiving by post	9
Mileage, witness, County Court, allowance	10
Money paid into Court as security for costs	11

N.

Non-suit, judgment, costs	7
Neglected directions, reference to	14

P.

Production, præcipe order for, several Defendants	5
Professional witness fees	5
Produce, notice of, affidavit of service of	7
Proceedings, Chancery, where carried on	15
Papers and proceedings, how to be forwarded <i>and to whom</i>	25/81-35/81

Q.

Quo warranto disclaimer costs	8
Quo warranto, filing papers	9

R.

Registrar, local appointment to examine in Chancery cases	6
Registrar, intitled to fees, on reference, solicitor and client	7
Retainer, allowance of	7
Registrar, Chancery action in Common Law Division, power of ..	7
Registrar fees to, change of venue	9
Records at trial, how marked, entries on	14
Returns quarterly, blanks for, how obtained	14
Resolutions	15
Records, allowance to Deputy on entering	30/81

S.

	PAGE.
Summons writ of, indorsements for costs	5
Sheriff, fees to, seizure made by direction of Plaintiff	6
Sheriff, mileage, returning with prisoner	6
Sheriff's Interpleader costs, appointment, what granted on	7
Solicitor and Client costs, reference to tax fees	7
Solicitor and Client costs of proceedings set aside	9
Sheriff's Interpleader, costs of allocatur and service	10
Service out of Province, allowance for	10
Solicitor and Client, bill of costs on entering judgment	10
Service on agent	10
Security for costs, money paid into Court for	11
Surrogate fees	11, 12, 13
Surrogate tariff, Clerk's, change of	14
Subpoena, allowance fee service of	38/81

T.

Term fee, judgment by default	6
Trial, notice of, affidavit of service, allowance of	7
Tariff, Item 12	10
Tariff, Item 1	11
Tariff, Item 59	11
Taxing officers, papers for, how directed	14
Tariff, County Court, new	14

V.

Vesting orders, judgment on	9
Venue, change of trial, fees, Registrar, Jury	9

W.

Writ, indorsement on for costs	5
Witness fees, professional	5
Witness fees, parties to suit, affidavit necessary	5
Writ not served, discontinuance	6
Witness intoxicated, allowance for	10
Witness, allowance for mileage, County Court	10
Writs, Chancery, issuing of, fee on filing copy, transmitting	14 & 15