

DIVISION COURTS.

OFFICERS AND SUITORS.

OFFICERS.—We are not without solid proofs of the exertions of officers to promote the circulation of this journal. If these exertions were more general, and not as now, confined to comparatively few officers, our means of becoming more useful to them would be greatly increased. In tendering renewed thanks to our friends, we would mention that a large edition of this and the January number has been struck off to meet demands for new subscribers; but as we intend after this month to shape the edition in conformity with the subscription list, we are anxious to have the latter completed by receiving the new names as soon as possible.

Officers suggesting subjects for examination, or putting queries on points of practice, will please condense their communications as much as possible, avoiding the introduction of all extraneous matter. Such communications are more convenient when kept separate from any letter sent at the same time,—and this remark applies also to Editorial matter, or cases sent for notice or insertion.

We direct particular attention to the notice "To Readers and Correspondents." Communications on matters Editorial should, as an invariable rule, be addressed to "The Editors of the Law Journal, Barrie;" on matters financial, to "The Publishers."

For the future, answers to queries of general interest to officers will appear under this head. We have only one this week answering that description

ANSWERS TO QUERIES.

We think that the Clerk is "authorised to charge a Fee under the 8th item in the tariff of the last Act, when the Hearing on application for new trial takes place before the Judge at the County Town." The Judge's decision, wherever made, must be communicated to the Clerk (see Rule 52) and be by him entered in the *Procedure Book*—if it is for the entering that the charge is made, and the Judge's decision is a judgment, and is so designated in the Rule.

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CLERKS.—*Applications for New Trials.*—When the written application for new trial is made out, and (when necessary) verified by affidavit, the next proceeding is to serve copies thereof on the opposite party. The prudent suitor will be disposed to leave this work to the clerk and bailiff. As the service must be proved, clerks should compare the originals and copies with the bailiff who can then take the copies only from the office, which is the safer practice, as all the original papers must be delivered to the clerk within fourteen days after the day of trial. The requisites of service are not here in place for notice, but it will be well to caution

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bailiffs to make the service in good time, so that the application may be duly lodged within the period prescribed by the statute. If the opposite party should not live *within* the division, or have any agent or place of business *therein*, the duty of forwarding copies of the papers to him rests wholly with the clerk, who is required to transmit the same (that is a copy of the application and of every affidavit in support thereof) *forthwith* to the opposite party. It is not stated by what means the clerk is "to transmit," but we collect from the rule that it is by mail (particulars of claim put in in proper form show the plaintiff the place of residence): the clerk should receive and pre-pay the necessary postage; for the 47 Rule provides that postage shall be paid in the first instance by the party in whose behalf the proceeding is required.

In sending the papers it will be well to adopt a general form of letter,—such as in the subjoined form:

In the ——— Division Court for the County of ———
Between A.B., Plaintiff,
and
C.D., Defendant.

I do hereby give you notice that the *Defendant*. (or *Plaintiff*, as the case may be) has this day delivered to me an application, and affidavits (if any) for a new trial in this cause, and that copies thereof are herewith transmitted. N.B. "You are at liberty to answer the same in writing, or by affidavit, if facts stated by the applicant in his affidavit are disputed."

Dated this ——— day of ———, 185 .
—————, Clerk.

To the above-named Plaintiff,
(or Defendant, as the case may be.)

When these papers have been served by the bailiff, or the party's agent, an affidavit thereof ought to be made without delay, for that is one of the documents which, according to the Rule, (No. 52,) must be delivered to the clerk within fourteen days. It will be unnecessary to give a form for this affidavit; the form No. 7 in the Rules will answer, substituting "application and affidavits" for the words "summons and statement of claim" in the form No. 27. In all cases the clerk should endorse on the application, &c., the date when received by him, and sign it; and if the opposite party does not live in the division, a note should be added stating the fact—something in this form:—

These papers were received by me this ——— day of ———, 185 , and I transmitted same day, by mail, copies thereof to ———, Plaintiff, (or Defendant, as the case may be), who lives in ———, without this Division, and who has not, so far as I am informed, any agent or any place of ——— or business therein.

E.F.,
Clerk ——— Division Court, County of ———.

Before transmitting the application and affidavits to the Judge, the fees and necessary postage may