

accounts of a year's standing where it can be shown that, according to the course of dealing, interest has been before admitted, or that it was an understood thing that interest would be charged after a certain time.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A J. P.

(Continued from page 123.)

HEARING UPON THE MERITS.

The information or complaint having been read, or the substance of it stated to the defendant, he is called upon to say why he should not be convicted, or why an order should not be made against him, according as the proceedings are by way of information or by way of complaint.

If the defendant, when so called upon, admits the truth of the information or complaint, and so pleads guilty to the charge as laid therein, and shows no cause why he should not be convicted or an order made against him, the Bench is of course relieved from the necessity of going into evidence, and may at once proceed to adjudicate; and even where the particular Statute, under which the information is laid, requires in terms that the offence be proved by the oath of one or more credible witnesses, it has been held that the defendant's confession is sufficient proof to satisfy the Statute.

If the defendant, however, in admitting the truth of the information or complaint should show any cause why he should not be convicted, as by pleading qualification, justification, or such like, although the admission dispenses with the necessity of proving the charge as contained in the information or complaint, yet the Magistrates should go into such evidence as may be necessary to prove or negative the qualification or justification; it being observed that the affirmative proof of any such matter which is relied upon in defence, is thrown upon the defendant. When the Magistrates have satisfied themselves of the true facts of the case, they can proceed to adjudicate (1)

If no preliminary objections be taken or they be overruled, and the defendant pleads not guilty to the information or complaint, the justices proceed forthwith to investigate the facts of the case.

Ordering Witnesses out of Court.—In the Superior Courts it is not unusual, when a case is called on, for the parties to make application to have the witnesses on both sides kept out of Court, until called upon respectively to give evidence; and although the Justices, on a hearing for

summary conviction, are not bound to follow the practice of Superior Courts in this particular, yet on obvious grounds it seems most desirable that they should comply with such a request when made, and order the witnesses to remain outside the Court-room until called in to give evidence. Should, however, any of the witnesses, contrary to the orders given them, remain in Court and hear the evidence given by other witnesses, that will not justify the Justices in refusing their testimony; but such evidence will be naturally weakened in the eyes of the Bench. (2)

Course of proceedings.—The course of proceedings is distinctly laid down in the Act 16 Vic., cap. 178, sec. 13, as follows, viz.:

“The said Justice or Justices shall proceed to hear the prosecutor or complainant and such witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint respectively, and also to hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce in his defence, and also to hear such witnesses as the prosecutor or complainant may examine in reply, if such defendant shall have examined any witnesses or given any evidence other than as to his, the defendant's, general character; but the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply as aforesaid.”

MANUAL, ON THE OFFICE AND DUTIES OF BAILIFFS IN THE DIVISION COURTS.

(For the Law Journal.—By V.)

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SERVICE OF JURY SUMMONS.

In serving summonses on Jurors the Bailiff is simply to execute the process entrusted to him; and all the Jurors for whom he has summonses should be served, whether in reality they are liable to serve as Jurors or not. Nor should he omit to serve a party on a representation that such party is unable by reason of illness to attend: these are not questions on which he is to decide; he is merely an agent to serve the summons, handed to him according to the directions of the Statute. At the same time it will be proper for the Bailiff to make a note

(1) Stone 91.

(2) Cork v. Neithercote, 6 C. & P. 714; Chandler v. Horn, 2 Mo. & Rob. 423.