

CHARGE OF JUDGE GOWAN.

only the interests of the few at the expense of the many. I have myself great misgivings as to the general result of the large increase working benefit. I am bound to say, however, that the measure has been so framed as to obviate as far as seemed practicable, the drawbacks of a mixed jurisdiction in courts of summary procedure.

But there is a view of the subject very important in relation to credit. A very large number of the transactions with rural dealers do not exceed the highest limit of the new jurisdiction, and there may be some danger in submitting certain written contracts to adjudication in tribunals where "good conscience" is admitted as a rule for decision of legal rights; at all events there will be a certain amount of uncertainty, and one can understand that purely "commercial paper," for amounts under the new jurisdiction may lose something of its value in the eyes of commercial men. It may not be an evil if thereby the credit system is reduced; but on the other hand there may be the temptation to run a liability beyond \$200, merely for the purpose of bringing the promise within the range of the Superior Courts, where unbending strictness in legal decisions prevails, and the power of juries is restricted.

THE APPOINTMENTS OF DIVISION COURT OFFICERS.

The duty of appointing the officers of the Division Courts was, from their institution, committed to the Judges, who were in a position to personally examine candidates for office, as to their educational fitness, and to know something as to their moral character. During the thirty-six years in which I performed the duty, ninety-four officers were appointed as clerks and bailiffs, some of them on promotion from one office to another, and I can say that with very few exceptions, better men or more faithful and efficient officers in the position could not be found. In all these years on four occasions only had I to exercise this power of removing clerks. A very large number have died in the service, some few resigned, and of my first appointments, in 1843, only three persons are now living.

The Act of last session changes the mode of appointment. The Lieut.-Governor now appoints clerks and bailiffs. The duty of appointing and selecting fit persons, with the care and promptitude necessary will be found no easy task under this centralization of the appointing power, for the Division Court officers are a numerous body, some-630, and scattered all over the Province.

TENURE OF OFFICE.

Some uneasiness, I learn, is felt amongst

officers, in respect to the security of their position, now that the appointment is "political." I believe there is no ground for any uneasiness—that an arbitrary exercise of the power of removal by Government is just as improbable now as under the old law. In "a paper" addressed to the officers of my Judicial District, published many years ago, when the judge had the power of appointing and removing clerks and bailiffs, I said:—

"The letter of the statute makes the tenure of the office for both clerk and bailiff during the 'pleasure' of the judge; but an office connected with the administration of justice ought at least practically to be upon a more certain tenure, and while willing and able to perform the duties required of him, faithfully, discreetly, and in the mode prescribed, every officer should be able to feel assured that his position was secure. These, my early formed and known sentiments, need no repetition to convince officers in this county that the exercise of my 'pleasure' will not be bottomed on caprice. But I hold the power of removal as a trust, and may not decline to exercise it when inability or misbehaviour in office is made to appear to my satisfaction."

This, the only just principle, will, I am persuaded, guide Governmental action, whatever irregular influences may be operative; indeed, the Government have beforehand recognised it on the face of the measure in a very prominent way, giving by express provision, in effect, a better tenure than before, "misconduct or incompetency" being the grounds to warrant a dismissal from office.

FURTHER LEADING PROVISIONS OF THE ACT.

I cannot now enter into the full particulars of the Act, but I may refer to some more of the leading provisions. An appeal is given in cases for amounts over \$100—fees to professional agents may be allowed in such cases, and provision is made for the creation of a jury fund by a small fee levied on suitors. This last will be felt as some hardship in the Courts where jurors are not desired by suitors, but I presume it was thought to be the best plan that could be devised for the compensation of jurors.

SUBSTITUTIONAL SERVICE.

There is also another provision making substitutional service sufficient where a debtor evades personal service or absconds. These are good provisions, and are calculated to save unnecessary costs to suitors.

A PROVISION AS TO FEES.

There will always be a difficulty in the proper adjustment of remuneration by fees; in some Courts officers receiving more than