

DIVISION COURTS.

CLERKS.

Duties of Division Court Clerks under 4th Sec. of County Courts Amendment Act 1857.

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The order under this section made by the Judge will be placed in the Clerk's hands by the party on whose behalf it has been obtained or by his attorney. The order is the only foundation for the interference of the Clerk. On receiving the order the Clerk should examine it to ascertain the day, hour and place appointed for the attendance of the party (*Garnishee*) named therein. At such time and place the Clerk should attend. If the *Garnishee* do not attend at the exact hour named, the Clerk should nevertheless remain a reasonable time, say for an hour thereafter, or if the order be to appear before him, the Clerk, between two hours named he should remain for at least half an hour after the last hour named.

Should the *Garnishee* make default in appearance the Clerk must make an endorsement to that effect on the Judges order. The following form will answer.

Clerks memorandum of non-appearance of Garnishee.

Memorandum. I _____, in the within order named attend. I this _____ day of _____ 185____, at the place within mentioned; at which time and place the within named _____ did not appear before me according to the said order, although I attended at the place within mentioned, in expectation of such appearance, from _____ o'clock in the forenoon, till past _____ in the afternoon of the same day.

_____ Clerk.

Should the *Garnishee* appear he may either admit or deny the debt. Such admission or denial should be likewise endorsed on the order.

And the prudent course for the Clerk will be to get the party to sign the statement made by him.

The following forms will be suitable:

Memorandum of admission of debt when signed by Garnishee.

Memorandum. On this _____ day of _____ the within named _____ appeared before me according to the within order,* and admitted that he was and is indebted to the within named _____ in the sum of _____ (if the whole debt be not admitted, add "and no more")—(if the *Garnishee* be willing to sign the admission, add, "and signed the subjoined admission in my presence.")

_____ Clerk.

I _____ within named admit that there is a debt of _____ pounds, (if the whole debt be not admitted, add "and no more") due from me to the within named _____.

Memorandum where Garnishee denies Debt.

On &c., (SAME as previous form to the asterisk,*) and disputes the debt claimed to be due from him to the within

named.—("If the *Garnishee* be willing to sign the denial of debt, add and signed the subjoined denial of debt in my presence.")

_____ Clerk.

I dispute the debt claimed to be due from me to _____ within named.

At present it seems unnecessary to add more for the Clerk's guidance than this, namely:—

When the proper endorsement is made, the order should be handed to the party or his attorney who prosecutes the order, but if neither be present to receive it and no direction concerning it have been given to the Clerk, it should be transmitted by mail to the *Clerk of the County Court*. Hereafter perhaps we shall have occasion to return to this subject.

BAILIFFS.

Duties of, acting under Executions—Provisions of a late Act.

(Continued from page 142.)

Should the Sheriff or any of his officers lay claim to goods seized by a Bailiff, founding such claim on a previous execution, the Bailiff ought to make a demand on the Sheriff to be informed of the precise time of the delivery of the writ to him, which demand the Sheriff is obliged to comply with in writing, signed by the Sheriff or any clerk in his office.

If that day be previous to the day and hour when the Bailiff received the warrant to execute, he should withdraw from the seizure in favour of the Sheriff.

On the other hand should the Sheriff or any of his officers make demand upon the Bailiff, the latter should show his warrant to the Sheriff or officer with his, the Bailiffs, endorsement thereon of the time when he received it. So far as the protection of Sheriff and Bailiff is concerned the statute declares, that "such writing purporting to be so signed, and the endorsement on the warrant showing the precise time of the delivery of the same to such Bailiff shall respectively be sufficient justification to any Bailiff or Sheriff acting thereon."

SUITORS.

(Continued from page 143.)

Punishment of Fraudulent Debtors—The "Judgment Summons" Clauses in the Division Courts' Act.

1st. Touching his, the debtor's, estate and effects.

2ndly. Touching the manner and circumstances under which he contracted the debt, or incurred the damage or liability, the subject of the action.

3rdly. As to the means and expectations he then had, and as to the property and means he still hath, of discharging the debt, damage, or liability.