

DIVISION COURTS.

OFFICERS AND SUITORS.

Clerks and Bailiffs—(Duties in Court).—In this number, we purpose noticing the chief duties ordinarily devolving upon officers during the actual sittings of D. C.'s, and furnishing forms for their guidance in the performance of these duties. We are indebted to one of the Clerks of the County of Simcoe for a paper issued by the Judge some time since for the information of officers, and finding it well adapted for the purpose for which it was designed, we take it as the basis of our present article. It is probable that in other Counties, directions for the conduct of proceeding may have been given, similar in substance if not in the same tangible shape. However that may be, we conceive officers will be pleased to have them set down in a form to which they can always refer for information. At the same time we would remark that it is entirely in the province of each Judge to regulate the form and mode of conducting business in open Court before him; as the old song goes, each may say, "I am Judge in my own little Court." Yet as much uniformity as possible is to be desired, and the principle that "Every thing should be done decently and in order" should be applied to the conduct of business in every Court. Some persons speak of this being a minor matter in small Courts; but may we not say that Division Courts are *not* small Courts, for "Justice makes them great."

"The speedy despatch of business" (says the paper before us) "is an important element in the Constitution of Courts of Summary Jurisdiction—to secure it business must be gone through on an uniform and regular system; where two or three hundred cases appear on the Cause-List, even half a minute lost in every case will protract a Court for hours,—to the great inconvenience of parties whose causes are entered low on the List,—which a proper economy of time would save, to be used in the more important business of hearing disputed causes.

"The ordinary routine business must be accomplished in the shortest possible time, and by proper attention on the part of the officers this may be speedily done. I would not have any indecent haste exhibited, nor should there, on the other hand, be a *single moment lost which discipline can save*. The public are disposed to form their opinion of an officer's efficiency mainly from what is seen of him in the public discharge of his duties; and next in value to competence seems public confidence in the officer's ability. Take pains, therefore," (Judge Gowan adds) "to prepare yourself for the business of the sittings, and you will be

able to create a favorable impression on the public, and will have attended to my wishes and order."

We will suppose the affidavits of service of Summonses returnable at a Court all duly made, and the Summonses, each enclosing all the papers belonging to the case, put together in convenient bundles, of say 50 each,—the Judge's List properly prepared in the prescribed form, and all things necessary and convenient, arranged for opening a Court ^[1] on the day appointed.

All things ready, and the necessary direction being given by the Judge after he has taken his seat, the Bailiff opens the Court by proclamation in the following form, or to the like effect.—

Proclamation on Opening Court.

Hear ye! Hear ye! All manner of persons who have anything to do at this — Division Court for the County of —, let them draw near and give their attendance and they shall be heard.—God save the Queen.

It is usual and convenient in the first place to swear the Clerk and Bailiff respectively to the due execution of the Confessions severally taken before them, and officers should be prepared promptly to take the necessary oaths when called on to do so by the Judge.

This part of the business concluded, the Clerk takes up the Summonses in regular order; usually commencing with the "adjourned cases;" he names the plaintiff in the suit, Christian name and surname at length, and the Bailiff at once calls the party in a loud voice, three times; the Clerk then names the defendant, who is to be called in like manner.—The Bailiff should then inform the Court if the parties appear, using uniformly brief and

[1] It is necessary under existing circumstances for officers to resort to every expedient, in remote Divisions, to give the room occupied for a Court anything like a respectable appearance, and to suit the arrangements to the objects in hand.—the holding a Court in a decent and orderly manner, with as much comfort as possible to suitors, witnesses and officers. The economy which denies the means of supplying suitable convenience to an Inferior Court, when it extends it to Superior Courts, is not based on any correct principle; it is not economy: it is indefensible parsimony. We hope before long to see the matter of accommodation for the D. C.'s taken up by the Legislature: in the meantime officers must do the best they can towards convenient accommodation. In two or three of the Courts in the County of Simcoe, a moveable railing of a cheap description is put up in the room used, and really serves an excellent purpose. We will not attempt to set down the "specification," but perhaps one of the Bailiffs of these Courts might in our columns give a hint to his brother Bailiffs elsewhere that would be useful.

In Judge Gowan's instructions to officers is the following direction:—
"The following order of things in the Court-room arrangement should, when practicable, be observed. The Judge's seat to be so placed that he can be heard, when speaking in an ordinary tone, by the suitors assembled. The Clerk's place close to the Judge's seat, so that the books and papers may be arranged conveniently at his hand out of the way of being taken up or interfered with by others.—Directly facing the Judge, and sufficiently close to permit his readily hearing persons therefrom, a place should be enclosed wherein the parties and their witnesses may be free from pressure of the crowd, while their cause is being heard. The Bailiff's position should be close to the enclosure for parties. Should there be a jury case, seats are to be placed for the Jury convenient to the Judge's seat,—and whenever barristers or attorneys attend on behalf of suitors, a place should be reserved for them from which they can conveniently confer with their clients."