

## DIVISION COURTS.

### OFFICERS AND SUITORS.

**Bailiffs.**—The 14th section of the D. C. E. Act contains one of the most important provisions, for the protection of Bailiffs, acting in obedience to a Warrant of the Court. The demand of copy of Warrant is made a condition to the bringing any action at all, for an act done in obedience to it. But it should be remembered that if the Bailiff delays complying with the demand, he may, after six days, be sued like any other person. There is not a limit, certainly, to the time within which a delivery of the copy of the Warrant is good, for it may be given at any time before action brought; but if the action be commenced after the time limited by the clause, and before the copy of Warrant has been given, the Bailiff is concluded and loses the benefit of this enactment. Whether or not the party has previously obtained a copy, the Bailiff should furnish one on demand, for it has been decided to be necessary to comply with the demand, even though the party has already obtained a copy of the Warrant.

### SUITORS.

The plt. being assured that his claim may be prosecuted against the dft. in a D. C., and having decided on the particular Court in which the same is to be tried, prepares for suit the particulars of his claim.

**The form and requisites of the claim or demand.**—We will endeavor to enlighten the suitor on these points.

The object of the plt's particulars is to inform the defendant who it is that sues, and of what will be attempted to be proved against him at the hearing, that he may prepare himself accordingly, should he have any objection to the claim.

It is a fundamental principle of Justice that a party should be informed of a claim or complaint made against him, and have an opportunity to answer it before he is condemned to make payment or satisfaction to the opposite party, and the regulations of practice under the Statute have a view to secure this.

**The particulars of claim must be written in a legible manner,**—not that anything extra is required in the writing or otherwise, but the claim must be written out fairly, so as to be easily read by a person of common education, for it has to be copied by the Clerk and read and compared by the Bailiff; (and if two copies are given in, by the dft. also)—not to speak of the Judge, before whom it comes at the hearing, whose time should not be wasted in trying to make out illegible accounts or claims. There

does not seem to be any objection to the use of abbreviations commonly employed in mercantile business; but only those in common and ordinary use should be employed. *The particulars of claim should show also the names in full, and present or last known places of abode of the parties.*

To begin with the plt.—his Christian and surname should be stated; and if several persons are plts. the names of each should be stated in full. It is not enough to describe the plts as "A. B. and Company." The individual members of the firm should be stated, and it may be added "trading under the style of "A. B. and Company." When the suit is by a corporate body, as by school trustees, the individuals composing the body are not named, but the corporation is described by the corporate name given by Statute.

The defendant is in like manner to be described by his surname and Christian name; or, in case of corporation by the corporate name; but in cases where the plt. is unacquainted with the dft's Christian name, the dft. may be described by his surname and the initials of his Christian name, or by such name as he is generally known by.

*The claim must also shew the present, or last known places of abode of the parties.*

It is important to both plt. and dft. that information on this head should be inserted in the particulars. It tells the Bailiff where he is to seek for the dft., and tells the dft. where the plt. resides, so that when a notice to the plt. is necessary, the dft. knows how and where it is to be served—whether at the plt's residence or at the Clerk's office. The Court is also informed by the papers of a fact entering into the question of jurisdiction—the place of residence of the dft.

(TO BE CONTINUED.)

## ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A J. P.

(Continued from page 143.)

### OF EXEMPTIONS AND PROVISOS.

The information should show that the defendant is not within any of the provisos in the clause of the Statute under which he is sought to be charged. (1.) The rule and distinction are thus stated. All circumstances of exemption and modification, whether applying to the *offence* or to the *person*, that are originally introduced or incorporated by reference with the enacting clause, must be distinctly enumerated and negatived; but such matters of excuse as are given by other distinct clauses or provisos need not be specifically set

[1] 2 Hawk. P. C., c. 25, s. 113; R. v. Bell Post, C. L. 330; Gill v. Simcox 7 T.R. 27.