

a summary order on a Clerk to pay money a second time without such conviction being shown.

On the whole, Clerks have a difficult and very responsible duty in the particular referred to, and require the exercise of no little caution and judgment so to act that the public may not suffer inconvenience, and that they at the same time may be kept safe. We would be glad to hear from Clerks having large business what their practice is.

J. C.—I wish to know if I, as Clerk, can sue a party owing me, in my own Division, or if I must sue in an adjoining Division?—The words of the Statute are "may." It will cost the defendant much more if I am compelled to sue him in another Division.

We think that under the Statute neither Clerk nor Bailiff can sue or be sued in the Division for which they act, but *must* sue and be sued in an adjoining Division. Such, in our opinion, is the true construction of the clause, and it has been so held by several of the Judges.

G. McC.—An interested party wishes me to sue out interpleader summonses, but I have declined to do so, as I believe it is the Bailiff who must give me the order to do it. Am I right?—please say.

You are right in declining to act; the Interpleader proceeding is designed for the protection of the officers of the Court, and summonses are to be sued out "on the application of the officer charged with the execution of the process": if the party applying to you be the claimant or judgment creditor, he does not answer that description.

A COUNTY CLERK.—A person enters an account with me, consisting wholly of a grog bill; I wish to know if it will be legal in me if I refuse to sue it? I have told him he can't collect it, but he insists.

You have no right to assume the office of Judge and determine on the parties' rights. You must enter the account on payment of the usual fees, but the plaintiff will gain nothing by the suit. Yet if he chooses to spend money after being informed that the demand is not recoverable, he has a right to please himself; it is not for you to dictate to him.

W.—I have reason to believe that one of the Bailiffs of the Court makes a practice of adding mileage beyond the actual distance from the Clerk's office, and many people have complained to me of it; I tell them they must complain to the Judge, for I have to go by the Bailiff's affidavit. I wish to do my duty, and if there is anything else I should do, would be pleased to hear of it from you.

If only a case or two of the kind appeared, it would be as well to leave those who feel aggrieved to appeal to the Judge; but if you know that the Bailiff makes a regular habit of overcharging, you should take a note of the cases, and report the matter to the Judge, who would probably cross-examine the Bailiff in open Court. A Bailiff guilty of extortion would be dismissed.

### BAILIFFS—Answers to queries by.

T. S. P.—A Bailiff had a few cases in which the parties asked him particularly to act as their agent in some suits in his own Court; one of the cases was called on and the Bailiff was about to examine one of defendant's witnesses, when the Judge stopped him and said he could allow no Bailiff to practice as Attorney in the Court. The Bailiff did not want to act as attorney, but as agent, and the act gives a man a right to send an agent; other Judges allow it. Can you say something in the case? You advocate, I know, a practice uniform.

You are altogether wrong; the Bailiff of a Court cannot properly be allowed to act as Agent for the parties, and if no other reason existed there would be this objection, that he cannot properly attend to the business of the Court and that of his principal at the same time. But there are other objections; the practice would inevitably lead to fraud and favoritism; and the case referred to was very properly checked by the Judge. We know of *no* County in which the practice of Bailiffs acting in Court as Agent or Advocate on behalf of Suitors is sanctioned by the Judge. We have placed the above *quære* under this as the appropriate head, though coming from a party who is not a Bailiff.

### SUITORS.

#### Adjournment of Hearing.

If either the plaintiff or the defendant is unable to proceed safely to trial for the want of a material witness or on other grounds, he should apply, when the cause is called on, for an adjournment to the next Court, and if *reasonable grounds* to the satisfaction of the Judge are shewn, the cause will be adjourned on such *terms* as may be fair under the circumstances.

It is necessary to consider what are *reasonable grounds*: If the party requiring a witness sues out a subpoena, and makes proper and timely efforts to serve such witness and cannot find him;—if the required witness be unable to attend by reason of sickness or unavoidable absence, or from some unexplained cause is not in attendance, although regularly subpoenaed and his fees paid—or if the party to a suit is himself unable to attend from some unavoidable cause;—any of the foregoing, if proved to the satisfaction of the Judge, would be *reasonable grounds* upon which to ask for an adjournment: but if a party needing a witness does not take the precaution to summon him a reasonable time before the Court, or is otherwise grossly negligent in preparing himself for trial, he has no reason to complain if an adjournment be refused. *The terms* of an adjournment vary according to the circumstances of each case; if the party asking it is not ready, owing to his own negligence, the adjournment will be on payment "of the costs of the day": *i.e.*, the court costs of hearing and ad-