

DIVISION COURTS.

OFFICERS AND SUITORS.

CLERKS—(*Correspondence*).

To the Editors of the *U. C. Law Journal*.

Hawkesville, 26th August, 1857.

GENTLEMEN,—I perceive that the *Journal* is to be published in Toronto, and that it is to make its appearance more regularly. It will not matter much to your readers where it is to be published; but that it is to appear more regularly is very important.

Among all the good things you are to do, I have to intreat you to recommend and advocate some plan by which a Schedule exhibiting a tariff of fees for Clerks and Bailiffs can be framed so plain that all Judges, Clerks, and Bailiffs can have but one opinion respecting it. There are two items in the tariffs which are causing much jarring and controversy. In cases of foreign service, "for entering Bailiff's return to summons to Defendant, 3d," is taken by some Clerks and Judges to mean that the original Clerk is entitled to this fee; others that the foreign Clerk must have it; and another class contend that each Clerk has a right to charge it. I belong to the latter class; both the foreign and original Clerk have to receive these returns, and must enter them in a book. Then if they *must perform the service*, they are clearly entitled to the fee. In the Schedule of Bailiff's fees, "drawing and attending to swear to every affidavit of service of summons when served out of the Division, 1s." In some counties the bailiffs are not allowed to make this charge at all; in this county the Bailiff is allowed this item on every summons sent from another county or Division for service in this Division, and for every service he makes beyond the bounds of the Division. This unfortunate state of things gives rise to frequent disputes, and elaborate correspondence between the Clerks. Still they cannot settle the question.

The foregoing was written at the time the June No. of the *Law Journal* was received, and thrown by from pressure of other business. The July No. afterwards came to hand, from which it appears you have not received any communications on the subject of "Protection of Court Books and Court Papers." My impression was, after reading that article, and considering the immense importance of the question, that almost every Clerk in the land would apply himself to the subject of a strong letter in support of your views. That kept me from touching it. It is surprising none have taken it up, but possibly each one thought as I did, "all the rest will do it." The personal interest of the Clerks, the first consideration with most men, is or should be quite sufficient to enlist every Clerk in the cause; but the importance to the community of having those books and papers safely kept is of such vast magnitude as cannot be properly estimated. You have stated the subject correctly. I can add nothing to the force of your remarks, but will mention that for the six months from 1st January to 30th June, 1857, the amount of claims entered for suit in this Court is about £4000; that about £2000 has passed through my hands from defendant to plaintiff; that about £1000 remains in the shape of unsatisfied judgments; and the difference of about £1000 is made up of sums which plaintiffs have abandoned, failed to establish, withdraw, &c. I have not gone thoroughly into the matter, not having the time to spare for so extensive a labour, but from a rough estimate I feel confident the above figures are near the mark. When it is considered that this is an inland county; that this division is composed of only one township, and that the newest, thinnest populated, and most remote of any township in the county, some idea may be formed of the enormous sums of money passing through the hands of Clerks, and of the vast importance of the business transacted by them in the older and more populous localities.

I have purchased one of Wilder's Safes at a cost of nearly £50, in which I can keep the books and most important papers, but there is not room for all the papers. Now I am out of pocket that large sum, and for all the books and stationery. The public receive the benefit; I receive fees, it is true—the fees in the tariff, which are meagre enough for the labour performed; but there are a great many things Clerks have to do for which no fees are allowed. Should any dispute this, I will furnish the *figures and items* for their information.

The simple fact of the matter is, that just so long as Clerks are compelled to furnish books, stationery, office room, fuel, &c., so long are they suffering an injustice, for Division Courts are now fixtures. Had this remuneration to Clerks been withheld only in the beginning, while the institution was only an experiment, and yielded so soon as the utility of the Courts was known and appreciated, there would not have been much cause of complaint. But they are now a permanent institution of the country; and it would be about as safe for Government or Parliament to attempt to gag the Press as to dispense with Division Courts. Then why continue the anomaly and injustice?
M. P. E.

M. P. E. must not expect what the wisdom of man has not yet attained. It is impossible to produce a document "so plain that all concerned can have but one opinion respecting it." There is, however, a body in existence having power to pronounce authoritatively on all questions affecting the Courts—the Committee of County Judges. And we have no doubt that should it be made to appear that the points on which doubts have arisen, or upon which there have been conflicting decisions are numerous, the Judges would assemble to determine them by rule. At page 220, Vol. 2 of this *Journal* are some notes upon the points specified.

Our correspondent's statistics and remarks give very full support to the observations made by us in a previous number. We hope to see other Clerks following his example.—*Eds. L. J.*

BAILIFFS.

We have heard nothing lately concerning a movement by Bailiffs towards securing a better remuneration for their services. Nothing like an early commencement. Parliament will probably meet in February next, and petitions should be prepared from the various localities, and be in the hands of members, so as to be presented in the early part of the Session.

But let not officers flatter themselves with the belief that it will be only necessary to lay their case before the Legislature to obtain relief. Petitions are of very little value unless properly backed up. They will be quietly laid on the table unless the matter set forth be fully explained, and the relief prayed for urged with vigor. The just claims of Bailiffs must be advocated. Now no advocate can accomplish much unless he be properly instructed, and the more strongly he is impressed with the justice of the case the more effective will be his advocacy.

What we advise is this—Let one or more of the best informed Bailiffs in each County be selected to