

DIVISION COURTS.

OFFICERS AND SUITORS.

CLERKS.—*On the mode of appointing a Deputy Clerk, we have had some questions put to us, and as the matter is of general interest we notice it under this head.*

The authority for appointing a Deputy Clerk is given by the 10th section of the D. C. Act. There are two preliminaries,—first, the Clerk must be prevented by *illness or other unavoidable accident* from acting as Clerk—and second, the approval of the Judge must be obtained in order to render the appointment valid. On the first ground the Judge is the proper authority to determine whether such *illness or unavoidable accident*, within the meaning of the Enactment, exists, and it is unnecessary therefore to enlarge upon it. What is meant by *unavoidable accident* it is not easy to say, but as this is put in contradistinction, as it were, to *illness*, it leaves a wide margin for action. It is proper that application should in the first place be made to the Judge; it may be personally, or by letter entering into all necessary particulars for the Judge's information. The appointment should be made in writing, and may be in the following form:—

I, _____, Clerk of the _____ Division Court of the County of _____, being prevented by ("*illness*" or "*unavoidable accident*") from acting in my said office, do hereby, with the approval of _____, Judge of the County Court of the said County, appoint _____ of the _____ of _____ in the said County ("*Gentleman, &c.*") to be my Deputy during the period of such ("*my illness*" or "*unavoidable accident*") according to the tenth section of the Division Courts Act of 1850.

Given under my hand this _____ day of _____ AD. 18 _____

Clerk of the said Court.

Approved by me,

Judge, &c.

That the Judge should enter his approval on the Appointment is not indispensable, but it is better so, and may prevent any misunderstanding or difficulty afterwards.

There is no provision in the Statute enabling the Judge to appoint a Deputy Clerk, and in case of the inability of the Clerk to make such appointment the only means of having the office legally filled is for the Judge to appoint some person as Clerk, with an understanding that he go out of office when the cause of such appointment has ceased, and the former incumbent is able to resume his duties. In such appointment the usual Bond and Covenant must be executed and filed, for the party would not be a Deputy, but Clerk in his own right, and the Statute only makes the Clerk and his Sureties responsible for the acts and omissions of the Deputy Clerk. All papers requiring the Clerk's signature

should be signed by his Deputy Clerk in that capacity.

The New Tariff.—We would be glad to hear from Clerks as to the working of the new Tariff; if they have experienced any difficulty in bringing it into practice; and if the Fees now given are sufficiently remunerative for the labour imposed: also, if any amendment in the law, as it affects them, is called for.

On one subject we have heard complaints—the want of proper accommodation in our Divisions for holding the Courts—and as no provision is made in the Act for securing a proper place that the Clerks are compelled to pay for such accommodation out of their small incomes, or that the Court is held in a Tavern, to the annoyance of the Officers, not to speak of the public injury resulting. The Judge has certainly a remedy to some extent in his hands, by appointing the sittings at some place where there is sufficient public spirit to provide a proper room, (not tavern) or to secure the use of a Town Hall or School House for the purpose; but the real remedy for this grievance can only be applied by the Legislature. We desire to know from Clerks if this complaint is general, and to learn what improvements occur to them as practicable.

If not in this number we will in the next be prepared to announce inducements for securing a complete guide to Officers—Clerks and Bailiffs—in the discharge of their numerous and important duties. As occasion required or as correspondents desired information on points of practice our columns have been open to them, and in nearly every case answers have been furnished by us; but we can see that there is something more necessary, and our efforts will be directed to procure for insertion in the *Law Journal* more systematised and more detailed information; at the same time we will continue to advise on points of practice as circumstances may suggest. The advocacy of all that may be justly advanced for improving the position of Officers and giving a fair return for the labours and responsibilities imposed upon them by law, we have had prominently in view from the first.

BAILIFFS.—*Note seized under execution, how sued.*—We are asked by "A Bailiff" if it be necessary for him to sue in his own name on a Promissory Note seized by him under a Warrant of Execution, and whether, if compelled to sue, he may not claim to be indemnified by the plt. against costs, in case the maker of the note, the person to be sued, should have judgment in his favor.

The enactment on the subject is contained in the 90th section of the D. C. Act, which only makes it incumbent on the Bailiff "*to hold promissory notes*" and other "*securities for money*" which