

same name of E. S. appears on the voters list for 1866 for the same lot and concession. The said E. S. actually lives and owns part of lot 11 in the 6th concession, the error in the roll being made by the assessors. The township has lately been divided into two electoral sub-divisions, and the dividing line is the line between the 5th and 6th concessions, the five first concessions forming electoral sub-division No. 1, and the remainder No. 2. I expect soon to be called on to make out a list for each division from the said voters list for the use of the Deputy Returning Officers at the coming elections, and in making the said lists I will have to put the name of E. S. in the list for division No. 1. The 8th section of cap. 13, 29 & 30 Vic. enacts, that electors shall only vote at the polling place established for the sub-division wherein the property on which they are qualified to vote is situated, consequently, as E. S. actually lives and the property on which he is entitled to vote is situate in division No. 2, he will go to the polling place of No. 2 for to vote, and as his name will not appear on the voters list for the said division, he will be deprived of the privilege. Suppose he then goes to the polling place of No. 1 and offers to vote there, and the returning officer feels disposed to record his vote, should it be received in the poll book as owner in the 5th concession, or as it really is, viz., in the 6th concession. I think in justice he should be allowed to vote, and on reading note *u*, p. 61, of Harrison's new Municipal Manual, I think he would be entitled by law to vote, but where he should vote or how to manage it correctly I am at a loss to know.

Please give your opinion in what way the error should be corred or arranged.

Yours, &c., A TOWNSHIP CLERK.

[Will be discussed next month.—Eds. L.C.G.]

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.
Bailiffs' Fees.

GENTLEMEN,—Some difference of opinion having lately arisen in this quarter as to the meaning of that portion of the Tariff which allows Bailiff's 20 cents for "drawing and attending to swear to every affidavit of service of summons when served out of the division."

Some Clerks hold that it refers *only and to all services of foreign summonses*, whether the Bailiff does or does not travel out of his division to serve the same.

Others think the words of the Tariff can only be construed to mean for service of summons (*home or foreign*) when the Bailiff has actually travelled beyond *his* division to serve.

Is it the general rule, and is it correct, to charge the extra 20 cents on *all* foreign summonses, and also for those issued out of the home court when the Bailiff travels beyond his division? In other words, are both parties right?

Please give us your opinion in the next number of the *Local Courts' Gazette*.

And oblige

A CLERK.

Co. Renfrew, May 13th, 1867.

[We cannot do more than refer our correspondent to page 33 of vol. V. of the *Upper Canada Law Journal*.—Eds. L.C.G.]

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

Evidence of wives of parties to suits in Division Court.

GENTLEMEN,—Section 101 of the Division Courts Act provides, that "on the hearing or trial of any action, or in any other proceeding the parties thereto and *all other persons* may be summoned as witnesses, and examined either on behalf of the plaintiff or defendant, upon oath (or affirmation), to be administered by the proper officer of the court; Provided always, that no party to the suit shall be summoned or examined except at the instance of the opposite party or of the judge."

Under this provision, 1st. Can the plaintiff in a Division Court suit call his wife as a witness for him?

2nd. Can he call the defendant's wife?

VanNorman et ux. v. Hamilton, 25 U. C. Q. B., shows that where husband and wife are co-plaintiffs the wife cannot be called as a witness by the defendant. Section 102 of the Division Courts Act provides as follows:—"The judge holding any Division Court may, whenever he thinks it conducive to the ends of justice, require the plaintiff or defendant in any cause or proceeding to be examined under oath or affirmation." Under this has the judge at the trial of a Division Court suit the power to require a wife, who is a co-defendant with her husband, to be examined on behalf of the plaintiff? I have known it to be done, and think it improper under Con. Stat. U. C. cap. 32, sec. 5, and the decision