

MANUAL, ON THE OFFICE AND DUTIES OF BAILIFFS IN THE DIVISION COURTS.

(For the Law Journal.—By V.)

CONTINUED FROM PAGE 143.

Duties in Court.—It is within the province of each Judge to regulate, subject to the express provisions of the Act of Parliament and Rules, the form and mode of conducting business in open Court before him. But uniformity in the business of these Courts is greatly to be desired, and unless otherwise directed by the Judge, Bailiffs may with propriety follow the subjoined directions for their guidance.

There is no reason why business should not be conducted in the Division Court with as much regard to order and propriety as in the Superior Courts.

“The speedy despatch of business,” observed the Judge of the County of Simcoe in a “paper” issued for the information of the officers of his Courts, “is an important element in the Constitution of Courts of Summary Jurisdiction—to secure it, business must be gone through on an uniform and regular system; where two or three hundred cases appear on the Cause-List, even half a minute *lost* in every case will protract a Court for hours—to the great inconvenience of parties whose causes are entered low on the List—which a proper economy of time would save, to be used in the more important business of hearing disputed causes.

“The ordinary routine business must be accomplished in the shortest possible time, and by proper attention on the part of the officers this may be speedily done. I would not have any indecent haste exhibited, nor should there, on the other hand, be *be a single moment lost which discipline can save*. The public are disposed to form their opinion of an officer’s efficiency mainly from what is seen of him in the public discharge of his duties; and next in value to competence seems public confidence in the officer’s ability. “Take pains, therefore,” (Judge Gowan adds) “to prepare yourself for the business of the sittings, and you will be able to create a favorable impression on the public, and will have attended to my wishes and order.”

On the day named for holding the Court, the Bailiff should see that all necessary preparations

have been made in the place appointed, making the most of such conveniences as there are for the suitable accommodation of the Court and the public; [1] and he should be careful to be punctual himself in attendance at the proper hour. Should the Judge be prevented from attending at the hour appointed, the Bailiff, as well as all others concerned, should remain and be at once prepared to go on with business when the Judge makes his appearance. According to the 7th section of the D. C. Act it is provided that if the Judge does not arrive before eight o’clock in the afternoon of the day appointed for the Court, that the Court shall adjourn to the following day, and so on from day to day until the Judge shall arrive to open the Court or give direction concerning it. After the Judge has taken his seat and given orders for opening the Court, the Bailiff, being at his post, opens the Court by proclamation to the following effect:—

Proclamation on Opening Court.

Hear ye! Hear ye! All persons who have anything to do at this ——— Division Court for the County of ———, now here holden, let them draw near and give their attendance, and they shall be heard.—God save the Queen!

After the Court has been opened, it is usual and convenient in the first place to swear the Bailiff as to the due execution of the confession taken before him, and this he should be prepared promptly to attend to when called on by the Judge; he should also be prepared with his book or his list in which the services are noted, so as to be able at once to refer to any case, and offer such explanations as to the time or mode of service as may be required of him.

[1] The following observations from the *Law Journal*, Vol. I, page 101, are very much to the point:—

“It is necessary under existing circumstances for officers to resort to every expedient, in remote Divisions, to give the room occupied for a Court anything like a respectable appearance, and to suit the arrangements to the objects in hand—the holding a Court in a decent and orderly manner, with as much comfort as possible to suitors, witnesses and officers. The economy which denies the means of supplying suitable convenience to an Inferior Court, while it extends it to Superior Courts, is not based on any correct principle; it is not economy; it is indefensible parsimony. We hope before long to see the matter of accommodation for the D. C.’s taken up by the Legislature; in the meantime officers must do the best they can towards convenient accommodation. In two or three of the Courts in the County of Simcoe, a moveable railing of a cheap description is put up in the room used, and really serves an excellent purpose. We will not attempt to set down the ‘specification,’ but perhaps one of the Bailiffs of these Courts might in our columns give a hint to his brother Bailiffs elsewhere that might be useful.”

In Judge Gowan’s instructions to officers is the following direction:—
“The following order of things in the Court-room arrangement should, when practicable, be observed: The Judge’s seat to be so placed that he can be heard, when speaking in an ordinary tone, by the suitors assembled. The Clerk’s place close to the Judge’s seat, so that the books and papers may be arranged conveniently at his hand out of the way of being taken up or interfered with by others. Directly facing the Judge, and sufficiently close to permit his readily hearing persons therefrom, a place should be enclosed wherein the parties and their witnesses may be free from pressure of the crowd, while their cause is being heard. The Bailiff’s position should be close to the enclosure for parties. Should there be a Jury case, seats are to be placed for the Jury convenient to the Judge’s seat—and whenever Barristers or attorneys attend on behalf of suitors, a place should be reserved for them from which they can conveniently confer with their clients.”