

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—For the past nine years, as Division Court Clerk I have followed the practice of my predecessor, in sending through the "Post Office" all summonses and transcripts on judgment to the respective clerks of outer Divisions, for service, &c., on defendants resident in this county, but not in this Division, and up to this date without complaint from any of the defendants—recently, however, several of these outer Division Court Clerks have declined acting on the transcripts, on the grounds of the illegality of such proceeding. Certainly I am aware that neither the "Division Courts" Act of 1850 nor the "Rules" framed by the judges, contain any provisions expressly authorising clerks to issue transcripts to outer Division Court Clerks; but the "Division Courts" Act of 1850, was intended by its wise and thoughtful framers, as a medium through which the middle and lower industrial classes might obtain a *cheap expeditious* and *just* settlement of their disputes, and as far as this Division Court is concerned, the sending transcripts of judgments against defendant's residing out of this Division, through the post office, to outer Division Court Clerks to authorise their bailiff to enforce the writs, has been on that principle.

In future, in similar cases, my proper course, I presume, will be to hand the execution to the bailiff of this court for enforcement, and the result I fear will be complaint, on account of the extra costs—as for instance—the defendant resides in a distant part of the county, say, 60 or 70 miles, the bailiff on arrival finds he will be compelled to make a seizure, advertise, and sell; now if the amount of judgment is small, the costs of court and the bailiff's fees will necessarily be more than double or treble the amount of claim. Again, the bailiff on reaching the defendant's place of abode cannot find any thing legally seizable, consequently he will be compelled to return his execution with "*Nulla Bona*" endorsed thereon, and therefore, not entitled to any fee for his loss of time or travelling expenses.

In such cases could the bailiff legally deputise the respective outer Division Court Bailiff to enforce the writ for him and make the return.

As cases against defendants residing in outer Divisions in this county are of frequent occurrence in this Division Court, may I hope through the medium of your valuable columns

for information as to the proper practice for Division Court Clerks to pursue in such cases.

Your obedient servant,

A SUBSCRIBER.

[The above well written communication, points more to what the law *ought* to be than what it *is*. There is a defect, the evils of which are pointed out by our careful correspondent, and might be remedied by a slight alteration in the act. We do not think a bailiff has power to appoint a deputy, though he may in certain cases call in assistance.—Eds. L. J.]

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

SIRS,—Your opinion as to the meaning of the following wording contained in 28 Vic. ch. 22, sec. 1, viz: "Every person so offending shall incur a penalty of not less than ten dollars nor more than fifty dollars, with costs." Does the act not mean that the fine and costs shall not exceed fifty dollars, and that they must exceed ten dollars.

Or would a fine of fifty dollars and costs, say ten dollars, making sixty dollars in all, be legal?

Yours, &c.,

J. P.

PORT ROWAN, Aug. 25, 1865.

[The penalty is distinct from the costs. The *fine* must be for any sum between ten dollars and fifty dollars. The *costs* are over and above and have nothing to do with the "penalty." The words, "with costs," being the magistrates authority for imposing any costs at all.—Eds. L. C. G.]

APPOINTMENTS TO OFFICE.

NOTARIES PUBLIC.

JAMES KEITH GORDON, of Whitby, Esquire, Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted August 12, 1865.)

COLUMBUS H. GREEN, of Toronto, Esquire, Barrister-at-Law, to be a Notary Public in Upper Canada. (Gazetted August 12, 1865.)

CORNELIUS VALLEAU PRICE, of Kingston, Esquire, Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted August 12, 1865.)

DANIEL MCCARTHY DEFOE, of Toronto, Esquire, Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted August 12, 1865.)

TO CORRESPONDENTS.

"LECTOR LEGUM"—"SUBSCRIBER"—"J. P."—under "Correspondence."