

was taken somewhat cautiously to the expression in the last paragraph but one, I made use of the words "*such as an order for a new trial, or to change the venue or the like.*" I was asked by a correspondent of yours (who I observe was ashamed to give his own name) to indicate where it is found that a Division Court judge has power to change the venue? I find at page 58 of Judge Gowan's Index of the Division Court Act, 13 & 14 Vic., cap. 53, the words: "*Venue—To be where defendant resides, or where liability incurred, unless otherwise ordered by judge, 25;*" and I find in Con. Stat. of U. C., cap. 19, sec. 72, an authority for a county judge to make what I call an order to change the venue, which for all practical purposes is the best name you can give it, and one which the clerks who had been using Judge Gowan's useful Index would readily understand. Judge Gowan (who is many years my senior) seems to consider the expression a proper one, in so far as his Index shews it, or he would not, I am sure, have made use of it.

I may explain here, in reference to the fourth paragraph of my circular (which was criticised by your correspondent, "A. B.," of 24th September, 1864), that a case has occurred in actual practice, which illustrates exactly what I referred to:—I hold the 5th Division Court of Elgin, in Aldborough, 12 miles from Morpeth, where the 3rd Division Court is held in the county of Kent—defendant resides where a cause of action accrued in the township of Orford, in that county—at a distance of eight or nine miles from the place where I hold the 5th Division Court in Aldborough, and nine or ten miles from Morpeth—Orford is part of the Division Court district of the 2nd Division Court held at Morpeth. The 6th Division Court of Kent is held at Bothwell, six or seven miles from where the defendant resides and where the cause of action accrued; Bothwell is in a different Division Court district in the county of Kent, but nearest to the residence of the defendants. The suit was brought in the court at Aldborough, because it was nearer to the residence of the defendants than the place where the 2nd Division Court is held in the division of which Orford forms a part; but I held, and still maintain, that whilst under the 1st sec. of the Amendment Act, 27 & 28 Vic., the suit might have been "entered and tried and determined" at *Bothwell*, that being "*the court, the place of sitting whereof is the nearest to the residence of the defendant,* and because it

was so, and because the cause of action did not accrue, and the defendant did not reside in Aldborough, I had no jurisdiction; so that I maintain, notwithstanding the criticism of "A. B." the sentence of the fourth paragraph of my circular was right. I have never yet felt myself embarrassed by the circular, because I am not afraid to recede from a position which is not tenable, when I am convinced I am wrong; and my desire to try and get my clerks and bailiffs to work upon an uniform plan was the reason for sending the circular.

Yours truly,

D. J. HUGHES.

St. Thomas, 26th Jan., 1867.

Bailiffs, and their Fees.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—Having noticed in your Dec. No. of the *Local Courts' Gazette* some remarks from an *Observer*, perhaps it would not be out of place to reply to some of them. Your correspondent seems to consider bailiffs generally as an inferior class of beings, and therefore only entitled to be paid accordingly, and at the same time speaks of the superiority of clerks, and their capabilities. Taking his figures, I hold both he and his bailiff have good situations, and are far above the average of Division Court officers generally; but there are expenses attending a bailiff's duties, such as travelling expenses, wear and tear, besides the fatigue from cold and storm, which if deducted from his fees, would leave a large surplus in favour of the clerk. How he can show that on the same number of suits the bailiff of his court made more money than he did, I cannot understand (*as the tariff now stands*). Clerks fees will average *over one dollar* on each suit throughout the country generally, and the bailiff's fees will not go over from fifty to seventy-five cents each; then take travelling expenses out of his fees, and the clerk receives at least double as much as the bailiff; however, if clerks generally are satisfied with the slight alterations he speaks of in the tariff, I certainly think it but just they should be furnished with books and stationery by the Government, as they really are court property, and not that of the clerks, who have to provide them. No doubt you and every other person who knows the duties pertaining to each office will admit that few clerks would make good or efficient bailiffs, and that in many cases as it requires