

for clerks to find books for the benefit of the public, and that he occasionally has to pay fourteen dollars for a procedure book. I can only say that I am not quite so philanthropic as "OBSERVER," being compelled to furnish court books at *my own expense*. I also exercise my own judgment as to what kind of books. I buy with a due regard to my personal exchequer, as well as furnishing a good and durable procedure book; hence I buy just the common cheaply bound blank books; the result is, those books that have been in use for ten or twelve years are in fragments, and I will venture to say, this is the case with over one-half of the Division Court books in the country; while, if the public (as they should do) furnish the clerks with proper well bound books, it would be far better for the interest of suitors. The county council of Elgin have very properly taken the matter in their own hands, and have furnished all the Division Court clerks in that county with a most superior set of books that will last for centuries, with careful use, which also secures a uniformity of books among all the clerks of that county. I think other county councils might wisely adopt the example of the county of Elgin; but there ought to be a general uniformity in this respect, and the government ought to take the matter in hand. The fees of clerks are very small, besides there is much writing they have to do in connection with their office, for which no fee is allowed; such as taking a bailiff's return to executions, making a return on transcripts, remitting money to foreign suitors, &c., &c.; and then to have to buy the books at their own expense to enter these proceedings in, is truly absurd. Then I will ask, who will not buy the cheapest books they can get that will answer the purpose? I am sure I will.

Yours, CLERK DIV. COURT.

Co. Norfolk, Jan. 7th, 1867.

*Trading horses on Sunday—Quashing By-law
—Conviction.*

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE

GENTLEMEN,—I should feel obliged by your giving your opinion on the following points: First Con., Stat. U. C., c. 104, s. 1, states that it is not lawful for any merchant, mechanic, workman, labourer, or other person whatever, on the Lord's day to sell, or publicly shew forth, or expose offer for sale, or to purchase any goods, chattels or other personal pro-

perty, or any real estate whatever, or to do or exercise any worldly labour, business or work of his ordinary calling, "conveying travellers or Her Majesty's mail by land or by water, selling drugs and medicines, and other works of necessity, and works of charity" only excepted. The 7th section of the said act, places the penalties by a conviction before a justice of the peace, that the person convicted of any act declared not to be lawful by the foregoing section, shall be fined in a sum not exceeding forty dollars, nor less than one dollar, together with the costs. Now, would or should a conviction which alleged that a person who was a labourer, had sold a horse on the Lord's day, be bad, or should a conviction, made after the form laid down in the act, be quashed because it was not the ordinary calling of the defendant, *i.e.*, a horse trader; or in other words can a labourer trade horses on the Lord's day without being subject to fine. No other objection taken to the conviction.

Another case: a County Council pass a by-law that no person shall exhibit himself in a state of drunkenness, or be guilty of cursing, profane swearing, obscene, blasphemous, or grossly insulting language, or other immorality or indecency, in saloons, taverns, or other houses of public entertainment, or in the streets, highways or public places in the said county. Is a by-law made by the county council of a county good until quashed, or should a conviction made under the above clause of a by-law be quashed because the council inserted in said by-law the words "in saloons, taverns, or other houses of public entertainment." No other objection taken to the conviction.

Your opinion on the foregoing will oblige
J. P.

[1. It is not against the act for a labourer to trade horses on the Lord's day. In order to bring the person accused within the operation of the act, it must be shown that the work done was "work of his ordinary calling," and it is not, we apprehend, any part of the calling of a labourer to trade horses. We therefore think the conviction bad.

2. By-laws are not good till quashed. If in excess of the powers of the municipal corporation that passes them, against law, or illegal for any other reason, they are bad, although not quashed. And a conviction under a bad