

waiting their turn, and you must not exhibit the monopolizing spirit which tacitly says, "You shall hear no case this day but ours." The words of a writer on Local Courts more than half a century ago might be applied to the Division Courts: "The Judge uses every means to understand a cause before he determines, but when once master of the case he closes it—this gives the losers occasion to complain that the Judge will not hear them: *that is, will not hear them by the hour.* If two contentious persons were to be heard as long as they chose to speak, there would not be more than one case tried in a day."

When a case is called on, the Judge ascertains what objections the defendant has to the plaintiff's demand; the plaintiff should notice what is objected to, and when called on for proof, name his witness or witnesses to the Judge, and as each is called on and sworn, question him in support of the demand. When the plaintiff is through, the defendant has the right to cross-question the witnesses, and each party should avoid interrupting the other while examining or cross-examining a witness, or while addressing any explanation or remarks to the Judge. Nothing is to be gained by such interruptions, and the Judge will always take care that parties have a fitting opportunity to say all that is material until he is master of the case.

To the defendant we would say further, by way of advice,—frankly admit such portion of the plaintiff's demand as you know to be correct; *come at once at the point really in dispute*; if, for example, the action be upon a note you have signed, and your defence is that it was obtained without consideration, or has been paid, or that it is over balanced by set-off, say, "I admit I signed the note, but I got no value for it," or, "I have a set-off exceeding it," or something to the same effect. If the claim be upon an account, prepare beforehand a memorandum of the items to which you object, and hand it to the Judge when asked for your objections, or make a mark in the copy of account served opposite each item which you deny, for you cannot expect to have other suitors delayed by hunting through a long account for the items objected to by you (that would be a premium to negligence) you should yourself do so before Court. Whatever your defence, come, as we said before, at once to the point—don't be beating about the bush—nothing is gained by equivocation or evasion; on the contrary, the denial of what is true, where it is afterwards proved, must create an unfavorable impression of your defence generally. We trust these few hints may prove useful, and show the class who form the great majority of litigants in the Division Courts, what line of conduct is most becoming and most advantageous.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A. J. P.

(Continued from page 85.)

The Hearing.

Magistrates are entrusted with the functions both of Judge and Jury, and must exercise their summary jurisdiction in a place to which the public may have reasonable access, and it being "more consonant with their obligation to dispense impartial justice for their judicial proceedings to be conducted with due solemnity and publicity," we shall presume that their sittings for trials will be held in open Court of Petty Sessions, which has been already noticed; and in what follows respecting the hearing upon summary conviction, we shall assume such will be the case.

Care should be taken that such Court is properly constituted, and the Statute governing each particular proceeding should be examined, as there are some cases in which the actual presence of three Magistrates at and to take part in the hearing is necessary in order to a valid adjudication. On this account and to avoid delay, it is desirable that a full Bench of Magistrates should attend at every sittings of the Petty Sessions. If the particular Statute authorizing the summary proceeding gives no direction as to the number of Magistrates necessary to a conviction, the general rule as laid down in 16 Vic. cap. 178 governs; sec. 11 thus enacts:

"That every complaint or information shall be heard, tried, determined and adjudged by one, two or more Justice or Justices of the Peace, as shall be directed by the Act or Acts of Parliament, upon which such complaint or information shall be framed, or such other Act or Acts of Parliament as there may be in that behalf; and if there be no such direction in any such Act of Parliament, then such complaint or information may be heard, tried, determined and adjudged by any one Justice of the Territorial Division where the matter of such information or complaint shall have arisen."

The Duty of Parties to attend at time appointed for the Hearing.—The contending parties and their witnesses are bound to be present at the time and place appointed in the summons for the hearing, and not only to attend at the precise hour named, but to wait during all reasonable hours of the same day, until the Justices are ready to hear the case. [1] It is recommended that Magistrates should be punctual in their attendance at the appointed hour and proceed to business with as little delay as possible.

Non-appearance of both parties.—Should there be more cases than one to be disposed of, and the parties do not answer when a particular case is called on, it will be well for the Justices to proceed with any other business ready, leaving to the last

[1] Williams v. Erith, 1 Doug. 186.