

I next proceeded to make out the warrant, and made another discovery. I went to the Judge on the 16th of April, and told him that Rule 55, stood in the way of further proceedings. He read it, and seemed much annoyed, said there had been negligence—he would not have his proceedings laughed at—that the money must be paid by *somebody*; and that he would look into it. I clearly understood that *somebody* to mean the clerk; but I didn't take the hint. On the 5th ult. the Judge wrote me that he had not received any return of the fine, and that he would on that day apply to a proper officer for a return, and in the event of his not receiving one that was satisfactory, I might consider that as my dismissal from the Clerkship of the 5th Division Court of Welland. Of course no return had been made, and I learn the Judge did not make the enquiry of the proper officer, as he said he would. On the 20th ult., the Judge handed me a note dated 21st Nov., as follows:

"I have not heard anything from you since my letter referring to the—matter; I therefore conclude that you do not intend to take any steps in the case, and that you accept your dismissal. You will give up all the books and papers belonging to the 5th Division Court to the County Attorney, when he demands them."

The following day, 21st of November, I waited on the Judge. He did not listen well to what I had to say—and got very warm when I told him I had been advised by more than one legal gentleman, in whom I placed confidence, that I was not delinquent in regard to the fine,—that I could not, even in that extremity, consent to pay it wrongfully, and I thought he could not transfer the penalty intended for another to me. But the payment of that fine *by me*, was held by him a *sine qua non* to preserve the dignity of his court, and on the 28th ult., Mr. Raymond, the County Attorney, called, and received from me the property of Court, in obedience to the order of the judge, dated 21st ult., mailed in the Post Office here on the morning of the 28th, and received by him during the forenoon.

I do not voluntarily surrender any part of my work by which I am endeavouring to support my family. At the same time there is some comfort in the consideration that I do not suffer in my self respect in parting company with his honor Judge Price

JACOB KEEFER.

[It is quite clear that a warrant of commitment must be under the hand and seal of the

judge and even if it be thought that it was the duty of the clerk to prepare the warrant, the omission to do so was too severely punished by the infliction of the highest penalty the judge could impose upon the clerk, namely, dismissal from office.

Though clerks strictly speaking hold office "at the pleasure" of the judge of the county wherein they perform their duties; the judge, ought nevertheless to act as though the appointment were "during good conduct." The tenure is not properly at the *arbitrary* pleasure of the judge, but in the exercise of his powers of removal he ought to be guided by a sound discretion.

As the facts are presented by Mr. Keefer, the punishment appears to exceed the offence—if offence it was. If authority is not found in the standard works on law or the regular law reports for a summary dismissal on such grounds, the following from an old source may possibly suit the case; and standing alone there would be no "conflict of decision to embarrass" its application:—

"I told him I was judge in my own little court,
And he would not do for me.
And he would not do for me."

—Eds. L. C. G.]

Execution—To what Bailiff to be directed.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

DEAR SIRS,—In your *Local Courts and Municipal Gazette* of December last, page 191, you say that a clerk of a Division Court has no power to issue a writ of execution to the bailiff of another court, and refer to the 135th sec. of the Act. I think you have overlooked the 2nd sec. of 18 Vic., cap. 125; 79th sec. of cap. 19, C. S. U. C., which gives the clerk authority to do so. If I am right, it might be well to notice it in your *Gazette*, so that parties may not be misled. Yours,

Jan. 3, 1867.

A SUBSCRIBER.

[We are always glad to be set right when in error, Editors being after all but fallible mortals; our correspondent, however, upon further examination will find that section 79 of the Division Courts Act has no reference to writs of execution, merely speaking of writs, &c., "*for service*." The law is defective, and should be amended].—Eds. L. C. G.

Division Court Books.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—I observe in your last issue, that "OBSERVER" thinks it a great injustice