

information is usually given by plaintiffs to the Clerk or is noted in the claim handed in for suit, and before the papers are taken from office, should be obtained. In Courts where the business is large, it will be absolutely necessary for the Bailiffs to make out a list of the summonses received, with columns for date and mode of service: it would otherwise be impossible to work to advantage, or to make proper returns to the Clerk.

The service of summons is made either by delivering a copy thereof *personally* to the defendant, or by delivering such copy to an inmate of the dwelling-house or place of business. In actions against absconding debtors after a Warrant of Attachment has been sued out, the copy of summons may be served either personally or by leaving a copy at the defendant's last place of abode: and such service of summons must be made ten days at least before the day when the same is returnable; in computing this ten days, neither the day of service nor the day of holding the Court is to be counted, (see the 24th sec. of the D. C. Act and Rule 22); there is an exception however in case of summonses under the 91st sec. of the D. C. Act, "Judgment summons," as they are called; in process of this description, service *at any time before* the day appointed for the appearance of the party is a good service if it be proved to the satisfaction of the Judge that such party was about to remove out of the jurisdiction of the Court (Rule 23). We would proceed now to note the mode of service more particularly.

**Personal service of Summons.**—In all places where the plaintiff's claim for debt or damages is more than forty shillings, the 24th sec. of the D. C. Act provides that the service on the defendant must be *personal*; what would amount in law to a personal service is a question for the Judge to determine, but it is not absolutely necessary to put the copy of summons into the actual *corporal* possession of the defendant, for whether a Bailiff touches him or puts it into his hand is immaterial for the purpose of personal service: it is sufficient if the officer sees the defendant or speaks with him, and draws his attention to the summons and leaves the copy for him, (*Phillips v. Ensell*, 2 Dowl. 684); and as by sec. 10 of the D. C. Extension Act the Judge is empowered to adopt and apply the general princi-

ples of practice in the Superior Courts to actions and proceedings in the Division Courts, the following cases will shew the circumstances under which a Judge acting in a Division Court would no doubt hold a sufficient personal service made out.

If after informing a defendant of the nature of the process and tendering the copy, he refuses to receive it, then placing it on his person or throwing it down in his presence, or leaving it at his house, would be sufficient service. When a process was put through the crevice of the door to a defendant who had locked himself in, the service was deemed sufficient; and the same where it was enclosed in a letter which was proved to have been received by the defendant, and that he took out the copy. In these and other similar cases the Courts have dispensed with strict personal service, when it appeared that the process had come to the possession of the defendant. (See cases cited in 1 Arch. Prac. 115.)

In many counties we are aware that the principles of the decisions referred to have been acted on, and it certainly seems proper that they should; for the object of service, to give the defendant timely notice of the claim against him, and when and where he is required to answer it, is sufficiently accomplished. Bailiffs then should keep this in view, and do all in their power to bring the summons to the timely notice of the defendant, and in peculiar cases instead of making the usual affidavit, note on the back of the original summons, "served under peculiar circumstances to be submitted to the Judge"; then when the case is called on, the Bailiff can state on oath the circumstances under which the service was made, and the Judge will determine upon the facts laid before him, if the requirements of the Statute have been sufficiently complied with—if there be sufficient to satisfy his mind that the process has been duly served.

In the practice of the Superior Courts it is deemed sufficient where the process is against both husband and wife, to serve the wife only. (Arch. Prac. 116.)

If the summons be against a Municipality, Trustees of a School Section, or other Corporation, the spirit of the Act is complied with by service, as in