

It is conceded that our statute law contains no provision for the punishment of a person falsely personating a voter.

The case cited of *Regina v. Dent*, 1 Den. C. C. 159, is in point. *Patteson, J.*, on a similar charge of fraud on the Imperial Municipal Act, decides that such a count discloses no offence at common law. "No case to maintain the affirmative was cited, nor is it believed that any such can be found. * * The analogy is all the other way."

Sec. 97, sub-sec. 9, of our Municipal Act authorises the oath to be taken by an elector that "he is the person named in the last revised assessment roll;" and sec. 423 would seem, though very loosely worded, to declare such a false statement to be perjury. It is not, however, necessary to decide this latter point.

Grave objections might be taken to the indictment before us. No averment is apparent negating the identity of defendant with the voter suggested to be personated; and it is open, perhaps to be contended that the charge, as it reads, is for personating and voting for the candidate James Grier in the name of George McVittie, the voter whose name is on the roll, not for personating George McVittie.

We think the conviction cannot be upheld.

CORRESPONDENCE.

Action against bailiff for neglect of duty in not executing warrant of commitment—Indemnity.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

SIRS,—Suppose a party has a judgment in the Division Court and that execution has been issued and returned *nulla bona*; that an order has been obtained against the defendant for contempt for non-appearance to judgment summons; that the party has previously on various times gone to jail under orders to pay; that no evidence can be given to prove that should the warrant now in the bailiff's hands be enforced defendant would pay. Suppose in such a case the bailiff allows the warrant to expire without making the arrest has the plaintiff, being the party aggrieved, an action against the bailiff, and what, if so, are the damages? Is not the court the only party aggrieved or concerned, as the party is ordered to be committed for contempt of court, not for non-payment to defendant? Supposing defendant has been examined and ordered to pay, remaining facts as above, what then?

Also, is the bailiff obliged to sell goods taken in execution, without being indemnified, when he does not call upon the parties to interplead, a third party having laid claims to the goods taken in execution? If he is obliged to sell what is the measure of dam-

ages when he refuses to sell, and does not call upon the parties to interplead, and plaintiff *cannot* shew a right to the goods—if any damages?

I hope you will excuse the insertion of so many questions in the above, but as they are questions that so exceedingly puzzle practitioners in the Division Court here that answers to them would very much oblige

Yours, &c.

"OTTAWA."

[Though a commitment for non-appearance to a judgment summons, is in a certain sense a punishment for contempt of court, a bailiff is not thereby relieved from an action by a person aggrieved by his neglect of duty—which may, or may not, have the effect of causing a loss to the plaintiff. Under the circumstances mentioned, we do not think a judge would be likely to give more than nominal damages.

If a defendant has been examined and ordered to pay, but makes default, he cannot be committed except after a summons to shew cause.

It is the bailiff's duty to execute the writ placed in his hands; if a claim be made by a third party to the goods seized he can protect himself by interpleading. If he does not take this course, he must if he refuses to sell, be prepared to defend an action at the suit of the plaintiff. If such an action be brought, the plaintiff will nevertheless have to prove his case and shew that the defendant had goods liable to seizure under the writ, and that he has sustained damages and to what amount by the refusal of the bailiff to act.]

Bailiff's fees for serving jury summonses—Service of subpoenas and affidavits thereof.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—From the facilities you may have, exclusive of your own opinion, will you be pleased to answer the following queries.

Firstly. Can a bailiff of a division court charge for the service of a summons on a juror, exclusive of mileage, if so, what is the amount to be charged?

Secondly. In what part of the Schedule of Fees made by the judges for the guidance of the division court officer can the charges for such services be found.

Thirdly. Are affidavits of service of subpoenas on witness necessary, and can the same