

too long, I must be brief. He agrees with me as to the desirability of uniformity of practice, but I think his remedy is utterly impracticable, from the fact that whatever practice or convention might adopt, if it were not in accordance with *the law* it would be worse than useless.

If every Division Court Clerk would firmly adhere to the law as he understands it, we would soon have much greater uniformity of practice than now obtains, as the statutes are, in my opinion, easily understood, and if they were strictly adhered to no great diversity of practice could possibly exist.

February 5th, 1866.

C.

Summary Conviction—Personal attendance of accused.

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

SIRS,—I find that some of my fellow magistrates are of the opinion that if a person is summoned before a magistrate on a charge over which the magistrate has summary powers, that the person so summoned can appear through counsel, and that to issue a warrant to bring up such person would be illegal. Now I dissent from this view entirely. I do not really see that anything can possibly be plainer put than that power. Cap. 102, secs. 15 and 27, Consolidated Statutes Canada, are in my opinion, too clear for cavil, that is, if a summons in any instance is disobeyed, the justice can issue a warrant; no just excuse being offered for the neglect or refusal to obey the summons. Of course in all cases of summary proceedings, parties are allowed the benefit of counsel; but I cannot see that a person appearing by counsel prevents a warrant from issuing to apprehend the party who disobeyed the summons. The justice, if he sees fit, can proceed *ex parte*.

Am I not correct.

Yours truly,

A MAGISTRATE.

[The Consolidated Statutes of Canada, cap. 103, and not cap. 102, is the Act relating to summary convictions by magistrates; and we presume it is with reference to this and not to the act as to the duties of justices respecting indictable offences, that our correspondent alludes.

We agree with him in thinking that the mere fact of counsel appearing for the accused does not prevent the justice issuing a warrant

for his enforced personal attendance. It is possible that his presence might not be insisted upon, for the justice can proceed *ex parte*, and the complaint be dismissed or a conviction had in his absence. But we do not think that his non appearance is excused by the attendance of counsel. The whole scope of both acts, in fact, seems to contemplate the personal attendance of the accused, and it is for the very purpose of enforcing his personal attendance that the provision for proceeding by warrant is inserted.—Eds. L. C. G.]

Alleged inefficiency and defects of Division Court system—Abrogation of—Suggestions as to collection of small debts—Credit system.

TO THE EDITORS OF THE LAW JOURNAL.

Lindsay, Jan. 30, 1866.

GENTLEMEN,—It appears that we are likely to have some legislation during the approaching session of Parliament, as to our Division Courts; and the tendency or inclination of those who have so far moved in the matter in the way of introducing bills, seems to be towards enlargement and extension of the jurisdiction of the *present* Division Court.

In reference to the above I have some suggestions which I should like to have brought before our law-makers, and take the liberty of asking you to give them a place in the columns of your Journal.

I quite agree with those who are agitating for a change of the law in respect to these courts, "that some alteration is required," but I strongly disapprove of the extending of their jurisdiction. One strong objection to these courts, as at present constituted, is, to my mind, that their jurisdiction is *too extended already*. If we are to have them continue, then it would be much better to have their jurisdiction reduced or that some proper mode of allowing appeals from decisions given or pronounced should be introduced.

My theory involves no less than their entire *abolishment*.

Let the Division Courts be entirely abolished. Give the County Courts jurisdiction in all matters above \$40. There is now a remedy by which servants can in a summary manner recover before a magistrate their wages not exceeding \$40. Give to magistrates a similar jurisdiction, to try and dispose of in a summary manner all matters of tort which can, under the present law be tried and dis-