ton v. *Hakemill*, 3 M. & Gr. 297, and a very learned and able judgment delivered to the same effect by Chief Justice Tindal. I should have thought, therefore, that the matter was as well settled as anything could be. The question was, it is true, somewhat sought to be raised in *Pollock* v. *Stacy*, 9 Q. B. 1033; but the action there was brought for use and occupation. It was not necessary in that case that there should have been a lease. Thus understood, I agree with that case; but if it be understood to controvert the earlier decisions on the point now under consideration, I certainly do not agree with it. The rule therefore cannot go.

BYLES, KEATING, and BRETT, JJ., were of the same opinion.

Rule refused

CORRESPONDENCE.

Bailiffs fees under late Act.

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

SIRS,—Enclosed please find my subscription for the current year. In the Division Court Amendment Act of last Session there is a clause which says that all foreign services of summons shall be directed to the Bailiff direct, instead of as heretofore to the Clerk. Now Mr. Editor I would feel much obliged by your answering the following queries. 1st. Is the Bailiff entitled to the fee formerly allowed the Clerk for receiving? 2nd. After the Bailiff has served the summons, to whom is he to apply to take his affidavit of service? if to a Commissioner, he is entitled to his fees, and will the Bailiff be refunded the amount paid to such Commissioner

I am sir, your obedient,

THOS. TOBIN,

Bailiff No. 1, County of Perth.

Stratford, Feb. 17, 1869.

[We refer our correspondent to a former page where the subject is discussed.—EDS. L. C. G.]

The right of Attornies to fees in Division Courts.

TO THE EDITORS OF THE CANADA LAW JOURNAL.

GENTLEMEN,—A correspondent signing himself "J. T." in your January number, has undertaken to explain away, and give the particulars of one of the cases tried in a Division Court, before a certain County Judge, as detailed by me in your December number, 1868. Your correspondent apparently knows nothing of the facts of the case alluded to by him,—if he does he mistakes them.

It is true, as he says, that I had been retained to attend to a suit before the judge in question at a country town, but I made no allusion to that suit, for my bill of costs had no relation to the first retainer or business done therein, which had ended and been paid for before the second retainer. The retainer on which I brought my suit was given afterwards, a written one, not ambiguous at all, and the judge founded his judgment upon it, as he said at the time, not upon any other evidence. All my evidence before the judge was written evidence and could not be misunderstood. In my letter I had no intention to accuse and did not accuse the judge of any improper motive. I do not think him capable of anything of the kind; nor did I suppose it possible that he could have any enmity to me, since we always have been upon the best of terms. If I am to suppose any thing against him, it would be a mistaken view not only of the law, but of the equity of the two cases and the facts in evidence. There were two cases to which I alluded in my letter, decided by the judge at different courts; and in deciding the last case, he took occasion to say *he decided it upon the same principle* as the first. The principle I supposed to have been in his mind was, that an attorney has no right to recover in his court for attendances, letters and affidavits written, and arguments before a judge in new trial cases. Therefore if he gave judgment upon some principle, upon what principle did he give it? Certainly it must have been given for work done as an attorney, and not as a mere labourer—and if as an attorney, why strike off proved attorney's work, or allude to some principle in his mind of deciding attorneys' cases? The case now in question to which "J. T." alludes was brought by me upon a written retainer filed in the court, *as explicit as it could be*—for applying upon special affidavits for a new trial, in which important law points were involved, and where the amount sued for was about $100.

It was necessary for me to make out a brief, and put down cases in point (the brief itself was worth $4), and the judge looked over it and it is filed among the papers. The judge knew that I went out on the train to a country town to argue the case, and spent most of the day to do so; and when he tried the case, he had before him the affidavit of a barrister (the county attorney of his county), swearing that my services in going out, &c., were worth $7. Yet in this case, setting aside all attendances, letters and affidavits, the judge only allowed