

Held, that A.D. was not an officer of the company within the meaning of the rule and was entitled to have the order rescinded.

Order 40, Rule 46, provides that "in case of any judgment or order other than for the recovery or payment of money, if any difficulty shall arise in or about the execution or enforcement thereof . . . the Court or Judge may make such order . . . for the attendance and examination of any party or otherwise as may be just."

Held, that there was no ground for the contention made on the part of the plaintiff that the word "otherwise" in the latter rule authorized the making of the order sought to be set aside.

Drysdale, Q.C., in support of the application.

Harris, Q.C., contra.

Province of New Brunswick.

COUNTY COURT.

FORBES, J. }
In Chambers. }

[Jan. 2.

IN RE KELLY.

Assignments and preferences Act, 1895 (58 Vict., c. 6), s. 12—Remuneration of assignee—Attendances upon solicitor—Right to employ solicitor.

This was an application to the Judge of the St. John County Court by the sheriff of St. John, under the above Act, as assignee of an insolvent estate, to increase the sum allowed him as remuneration by the creditors of the estate, from \$300 to \$500, on the basis of an itemized account of \$823.40. Among the items were about fifty personal charges from \$2 to \$5 each, for attendances upon a solicitor engaged by the assignee, to advise him in administering the estate.

Held, that the charges must be disallowed.

Seemle, an assignee possessed of a legal training is not entitled to employ a solicitor to advise him in his duties at the expense of the estate, without the consent of the creditors.

L. A. Currey, Q.C., for the assignee.

W. Watson Allen, *J. R. Armstrong*, Q.C., and *Scott E. Morrill*, for the creditors.

Province of Manitoba.

QUEEN'S BENCH.

TAYLOR, C.J.]

[Dec. 31, 1896.

IN RE TAYLOR AND CITY OF WINNIPEG.

Municipality—By-laws—Dairy inspection—Quashing by-laws—Ultra vires.

This was an application under section 385 of the Municipal Act for an order to quash on the ground of illegality a by-law passed by the City of