

in thirty days, be converted into money; as growing crops, notes, or securities for monies not matured, &c. In such cases it seems to me plainly, not to be the duty of the bailiff to make return, and if it is not his duty, certainly he is not liable to the forfeiture of his fees.

In conclusion, I beg to say, that you will confer a great favour upon all clerks by a careful examination, and a distinct statement, in your columns, of what the law is in respect to the matter in question.

I am, Gentlemen, truly yours,
CLERK, 2ND D. C. OXFORD.

Securities by public officials—Guarantee Societies.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—A great deal of information has been given on the subject of Division Courts in the *Gazette*. But there is one matter to which I desire to draw your attention—I mean the importance of having respectable men to fill the offices of Clerk and Bailiff—with this object I suggest that an act be passed authorising the judges to accept the bonds of some guarantee society, instead of the security now taken, which is often nothing more than a form imposing much annoyance and trouble on judges. I think this course would be the means of introducing a better class of men to offices of trust, and add much to the efficiency of the Courts.

Yours, &c.,
A SUBSCRIBER.

Kilmont, April 25, 1856.

[See Editorial remarks on p. 83.]—Eds. L.C.G.

Insolvent Act.—Evidence of insolvent.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

Under the Insolvent Act of 1864, when the assignee sues in his own name in a Division Court, can the evidence of the insolvent be received to prove the claims.

RENFREW.

[We think it can be received in a Division Court. The insolvent does not seem to come within the Evidence Act; he is not a party to the suit "individually named in the record," or a person "in whose immediate or individual behalf" the action is brought, though he may be interested in the result of the suit,

which however is not sufficient to disqualify him. This is the best opinion we can form in the absence of authority.]—Eds. L. C. G.

Insolvent Act of 1864.

TO THE EDITORS OF THE LAW JOURNAL.

GENTLEMEN,—As a great difference of opinion seems to prevail in relation to the meaning of sub-section 16 of section 11 of the above act, I beg leave to submit the matter to the consideration of the profession throughout the province.

The sub-section is as follows: "The costs of the action to compel compulsory liquidation shall be paid by privilege as a first charge upon the assets of the insolvent; and the costs of the judgment of confirmation of the discharge of the insolvent, or of the discharge if obtained direct from the court, and the costs of winding up the estate, being first submitted at a meeting of creditors and afterwards taxed by the judge, shall also be paid therefrom."

Some legal gentleman are of opinion, and one county judge has decided, that the whole sub-section applies to cases of compulsory liquidation *only*; while others contend that part of the sub-section clearly applies to cases of "voluntary assignments," where the insolvent has obtained a discharge from his creditors, and afterwards gets a judgment confirming that discharge from the judge of the county court, and also to cases where a discharge is obtained "direct from the court," without any preliminary proceedings having been taken.

It is a rather startling interpretation to give the sub-section, to hold that it applies to cases of "compulsory liquidation only;" because the act was framed for the relief of those already bankrupt, rather than to provide for cases of future bankruptcy. And if the costs of obtaining a discharge under a voluntary assignment are not to be paid out of the assets of the insolvent in the hands of the assignee, how is it possible for him to reap any benefit from the act? He has already surrendered, on oath, to the assignee "all his estate and effects, real and personal," and it is not reasonable to suppose that the legislature intended that he should find his own costs in some way or other, after he had given up every thing. The disbursements range from fifty to sixty dollars, and if these are not to be paid out of the estate of the insolvent, then