witness in criminal trials against his own client upon a matter affecting the guilt charged, we advise him to get the point before the judges, by tendering himself on a suitable opportunity before, say, Chief Justice Hagarty or Mr. Justice Galt.]—Eds. L. J.

Married Women—Replevin.

To the Editors of the Canada Law Journal.

Gentlemen,—E. H., a married woman, on the 3rd May, 1872, put up at the hotel of J. T., bringing with her trunks containing her clothing and that of her children, who accompanied her, and some books. Upon leaving, J. T. refused to allow her to take her trunks, claiming a landlord's lien thereon for a hotel bill owing him by her husband for board, &c., which debt had been contracted by him some time previously. E. H. applied to the County Judge of the county of Peterboro' for an order for a writ of replevin, upon her affidavit, following Con. Stat. U. C. cap. 29, and 23 Vic. cap. 45, stating that she was the owner of the trunks, containing, &c. (describing the principal articles), the value of the goods, and that the same were in the possession of J. T., who wrongfully detained them, claiming, &c. (as above). The Judge granted a summons in the first instance, and, upon the argument, refused to make the order, on the ground that it should appear from plaintiff's affidavit how she, being a married woman, acquired the goods as owner. Plaintiff's attorney contended that plaintiff, having made the affidavit required by law, had made a *prima facie* case, and was entitled to the order, unless J. T. could show an existing lien in law; but the contention was overruled. Plaintiff is now driven to an action of detinue or trover.

Would you kindly give the above a place in your next issue, with your opinion as to the correctness of the learned Judge's ruling, and as to whether there is any other form of affidavit prescribed by law to meet the case of married women, plaintiffs in replevin: also whether the Act of last session, with respect to the rights of married women, places them upon any different footing than they formerly were with regard to applications of this kind?

And greatly oblige yours, &c.,

Attorney.

Peterboro', May 8, 1872.

[As we understand it, the affidavit in this case was drawn so as to be within the provision of 23 Vic. cap 45, sec. 1, sub-sec 1. Under this clause it is to be *shewn to the satisfaction of the judge* that the person claiming the property is the owner, or is lawfully entitled to the possession thereof. We cannot say that the judge was wrong, as a matter of practice within his decision, in requiring that the facts shewing the title of the married woman to the property, and giving her the right to claim its recovery in her own name should be set forth on the affidavit. Before the Ontario statute of last session, she would not have had the right to sue as a *feme sole*—she can by virtue of that Act sue in her own name for the recovery of property declared by that or any other Act to be her separate property. We think she should shew sufficient facts in her affidavit to bring her within the Act. As she would have to establish such a state of facts at the trial, the judge was not unreasonable in requiring something more than her mere affirmation that she was the owner, especially as his order to replevy is equivalent to a judgment in the first instance.—Eds. L. J.]

Insolvency—Double proof.

To the Editors of the Canada Law Journal.

Gentlemen,—In the case of *Re Dodge et al., Insolvents, and Budd, an Insolvent*, reported in your February number, p. 51, and referred to in March number, p. 57, has not the effect of the 60th section of the Insolvent Act of 1869 been overlooked?

The language of the judgment of the court in *Re Chaffey*, 30 U. C. Q. B. 64, leads almost irresistibly to the conclusion that had the court been able to decide that case under the Act of 1869—in other words, had the proceedings therein been taken subsequently to that Act coming into force—the double proof would have been allowed, subject to deduction in respect of the value of the endorsement.

Compare subsection 5 of section 5 of the Insolvent Act of 1864, with section 60 of the Act of 1869. It may be useful in this connection to remark that the rule against double proof has been refused to be extended to a case where one of the proofs was made under a decree for the administration of the trusts of a deed for the benefit of creditors, *ex parte Thornton*, 3 De G. & J. 454, followed by the Master of the Court of Chancery for Ontario