The letter, in the case last referred to, was but an expression in writing of what was without it the natural consequence of the absconding partner's acts.

This was held in *Kemp* v. *Canby* (3 Duer, p. 1), and in *Deckard* v. *Case* (5 Watts, p. 22); *Kelly* v. *Baker* (2 Hilton, 531). Where one partner dies, the surviving partners have the control and disposition of the property, and may make an assignment of the property of the firm for the benefit of creditors, without consulting the representatives of the deceased partner (3 Paige, 517). The same rule should be applied to one who abandons the interests of the firm, and absconds, to avoid the creditors, or for any other cause, leaving to his partner the control of the business.

The evidence, I think, was admissible, and the Judge erred in excluding it. A new trial should be granted; costs to abide event.

Sutherland, J., concurred.—*N. Y. Transcript.*

## GENERAL CORRESPONDENCE.

To the Editors of the Law Journal.

*Insolvent Act of* 1864.

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 the act is sadly defective. It is a stumbling block thrown in the way of the blind, and the sooner it is removed the better for those who expected some benefit from its provisions. It is a matter of the utmost importance to the community, and to the profession, and I trust that the county judges throughout the country will indicate, in some way, the interpretation which each is inclined to give it.

Solicitor.

Cobourg, May 27, 1865.

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To the Editors of the Local Courts' Gazette.

*Securities by public officials — Guarantee Societies.*

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.

Kinmont, April 25, 1865.

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[This is a subject which is of importance not only to Division Court officers, but to all public officials. It has already, however, been brought before the Government, and a Bill is