

GENERAL CORRESPONDENCE—CIRCUITS.

inally, though really sold. There are many arguments valid to confirm the legality and morality of these transactions. But the worst of it is that when a claim is put in for collection, judgment obtained, and execution issued, up starts a claimant whose existence you had not dreamed of, and of whose claim it was therefore impossible to acquire any knowledge.

Give honest lawyers fair play, and they will not be harassed by clients who demur to pay costs for a worthless judgment. If the registered claim is sanctioned by the execution of due "legal solemnities" the client will be informed that the case is doubtful or hopeless, and there will be no ground for grumbling.

Yours, &c.

An Attorney.

July 6, 1868.

Insolvency—Effect of discharge—Schedule of debts—Official assignee.

TO THE EDITORS OF THE CANADA LAW JOURNAL.

I notice several letters from "Scarboro," and one from "Quinté." It seems evident from the cases cited by "Scarboro," and particularly from the judgment *McKay et al. vs. Goodson*, reported in No. 5 Vol. 27 Queen's Bench, that unless the debt is mentioned in the Schedule of liabilities, a discharge of the insolvent will not be a discharge of the debt. The practice in these counties, in some cases, has been to make an Assignment without any Schedule of liabilities at all. "Scarboro" need not suppose that this has been done through the advice of the Official Assignee, (though he may by education be qualified to give advice on the subject) but lawyers, acting to the least of their judgment under the decision of Judge Draper in the case of *Hingston vs. Campbell* 2 U. C. L. J., N. S. 299. Draper, C. J., there says: "a copy of the list of creditors produced at first meeting of creditors need not be appended to the assignment." Let us look practically at the matter—an insolvent makes an assignment to an official assignee under Act of 1865 and C. J. Draper's decision without appending a list of his creditors; he waits for a year, and gets a discharge from all his debts, mentioned and set forth in the statement of of his affairs annexed to the deed of assignment, which, according to Judge Morrison, discharges him from nothing. Either C. J. Draper's decision is wrong, or, to give effect to both decisions, we must agree that a man who

wishes to get a consent of his creditors to his discharge must have a schedule of liabilities, while a man who waits for a year may get a discharge without any schedule at all. The Judges seem to be as uncertain as the law itself.

I quite agree with "Scarboro" that the Act of 1864, although the intentions of the framer were good, seems lamentably deficient, and particularly in matters of practice, such as in appeal, taxation of costs, &c., but we must remember that the framer of the bill was a Lower Canadian Lawyer, and could not be expected to know the practice in Upper Canada. I also agree with "Quinté," that, as a general rule, assignees are not to blame. But *Ex parte Alexander*, 1 Deacon & Chitty, 514, says that "an Official Assignee is an officer purely ministerial; he is debarred by his position from taking either the side of the creditor or that of the insolvent. As a consequence, he cannot stop the application for discharge, or appear to oppose it, neither, as assignee, should he apply for it."

ST. LAWRENCE.

Brockville, July 8th, 1868.

CHANCERY AUTUMN CIRCUITS, 1868.

The Hon. the Chancellor.

Toronto Tuesday Sept. 1.

EASTERN CIRCUIT.

The Hon. the Chancellor.

Brockville Friday Sept. 18.

Cornwall Monday Sept. 21.

Ottawa Tuesday Sept. 29.

Peterboro' Monday Oct. 5.

Lindsay Thursday Oct. 8.

Kingston Tuesday Oct. 13.

Belleville Monday Oct. 19.

HOME CIRCUIT.

The Hon. Vice-Chancellor Spragge.

Owen Sound Tuesday Sept. 15.

Barrie Monday Sept. 21.

Brantford Tuesday Oct. 27.

St. Catharines Friday Oct. 30.

Guelph Wednesday Nov. 4.

Hamilton Tuesday Nov. 10.

Cobourg Thursday Nov. 19.

Whitby Friday Nov. 27.

WESTERN CIRCUIT.

The Hon. Vice-Chancellor Mowat.

Simcoe Tuesday Sept. 29.

Woodstock Friday Oct. 2.

Goderich Tuesday Oct. 6.

Stratford Monday Oct. 12.

Sarnia Thursday Oct. 15.

Sandwich Monday Oct. 19.

Chatham Thursday Oct. 22.

London Tuesday Oct. 27.