General Correspondence.

would advise me not to incur further costs, as he will certainly discharge it.

However, preferring to take the advice of the *Law Journal* as to what is law on the subject, I write for the necessary information.

I may state that the plaintiff was always ready and willing to pay the costs of the application to set aside the declarations (there being two cases) whenever a demand was made; but he objects to paying $20 more for making the order a rule of court, as taxed against him, in both cases.

Yours truly, G. O. Freeman.

Chatham, Aug. 3, 1868.

[Costs can only be given, in such a case, "provided an affidavit be made and filed that the order has been served on the party, his attorney or agent, and *disobeyed*." (Har. C. L. P. A. 649, Rule 129). If a judge's order have not been disobeyed at the time it is made a rule of court, the court must rescind so much of the rule as relates to the costs of making the order a rule of court. (2 Chit. Prac. 11th ed., 1595, 1596.—Eds. L. J.]

To the Editors of the Law Journal.

Gentlemen,—I inclose the following as a case that has really arisen, for your consideration and judgment, trusting you will kindly answer the same.

A. owned lot 7 in the 4th concession, township of ——, through or rather across which has been open for twenty or thirty years a road for public use, in consequence of the allowance for road on the south end of said lot being such that it cannot be made fit for travel as a highway. In 1858, A. made his will devising the whole of said lot to his son B. Afterwards, in 1860, A. got a deed of that portion of the said road allowance that butted on said lot, from the Council of the township. A. subsequently died (in 1863), without revoking or altering his will, and owning said lot 7. A. left other children besides B., who dispute B.'s title to the said portion of road allowance, on the ground that no mention of the said portion was made in the will; that the deed for it was given by the Council subsequent to the making of the will, &c.

Is B. entitled to the said portion of road allowance, or are the other children entitled to equal shares of the same? If so, supposing A. had never taken out a deed, who would be entitled to obtain a deed from the Council? B., as owner of lot 7 under will?—or should the deed have been made to all A.'s children as heirs-at-law? Also, should the deed for said portion of road allowance express that it was given in lieu of road opened across lot 7?

Yours truly,

A Subscriber.

P. S.—In a deed, part of the description of a farm, consisting of parts of several different lots, that is to say, a line between two points, was omitted, so that the description does not really inclose the land. Does the deed containing the defective description give the purchaser a title to the land intended to be conveyed by the deed?

[We are not disposed to answer questions of this kind. Even if we were so disposed we would not undertake the task without having the entire will mentioned in the letter, and the entire deed mentioned in the "P. S." before us. Our correspondent had better hand both with a proper fee to some counsel, and get his opinion on the questions submitted. —Eds. L. J.]

A Welsh Jury.—At the Montgomery Quarter Sessions, held at Newton, last week, before Mr. C. W. Wynne, M. P., and a bench of Magistrates, a tailor, named John Welsh, was placed in the dock charged with stealing a milk can, the property of David Davies, residing at Melford. The prisoner was undefended, and the jury, after hearing the evidence, handed in a verdict of guilty, and Welsh was sentenced to three months' imprisonment, with hard labour. According to the local *Express* it has since transpired that, so far from finding the prisoner guilty, the jury were unanimous in the belief that he was innocent, and the foreman was charged with a delivery of a verdict accordingly, but that when he stood up to reply to the formal question of the clerk of the court the unfortunate man lost his presence of mind and delivered a verdict of "Guilty," and the prisoner was consigned to gaol in the presence of the jury, who were too freightened to interfere.—*Law Times.*

Intelligent Jurymen.—Sir. W. Erle in the course of his evidence on juries was asked whether it would be advisable to give juries desks and writing paper on which they might take notes. The learned gentleman made no direct reply to this inquiry, but said that 'the most intelligent and the best juries with whom he had been brought in contact, patiently listened in silence to all the evidence and all the speeches, and then found a verdict for the plaintiff or the defendant.' A talkative juror is fortunately rarely met with, but Sir. W. Erle evidently thought that the temptation to cross-examine would prove irresistible if once juries got into a habit of taking copious notes.—*Law Times.*