The Legal News.

Vol. I. OCTOBER 12, 1878. No. 41.

WEARING APPAREL.

A point of some interest in insolvency matters came before the Judge of the County Court of Middlesex, (Ont.) a short time ago. The insolvent, one Sanborn, having retained an expensive watch, valued at $150, an application was made under the 143rd section of the Act of 1875, for an order to require him to deliver up the article to the assignee. The application was opposed, on the ground that this watch, which the insolvent had been in the habit of wearing on his person, came under the head of necessary and ordinary wearing apparel. In support of this pretension, the County Court Judge was referred to the definition of the word "apparel" as given in Worcester's Dictionary and elsewhere, from which it was argued that the word comprised not only clothing, but also such ornamental things as are usually worn. The Judge gave the case serious consideration, and while rejecting the application, viewed it with so much indulgence that he ordered the costs to be paid out of the estate. He pointed out, however, the obvious objection to a pretension such as that put forward on behalf of Sanborn. "For instance," he remarked, "a person perceiving that insolvency was likely to overtake him, might invest a large portion of his funds, or indeed in some cases, he might readily invest all his assets, in the purchase of a costly watch, set with costly jewels, and claim to have it exempted from the control of the assignee, and thus preserve his property from his creditors. Perhaps so gross a case might come within the domain of fraud, and in this way the insolvent might be reached. But it is easy to see how a very large expenditure could be incurred in the purchase of a valuable watch, and secured to the insolvent, if in all cases a watch can be said to be a necessary and ordinary article of apparel. In this case the insolvent's estate will pay 20 cents in the dollar, and previous to his final collapse he compounded with his creditors for 60 cents in the dollar. Some eight months previous to the composition he became the purchaser of this watch, which he values at $150. Now was this watch such an article as in ordinary cases would be worn by a person in his condition? I think it is not reasonable that a man pecuniarily situated as he was, should have $150 invested in a watch. Neither is it shown that there was any necessity for his having a watch at all. Nothing more is urged than the usual convenience of a watch to any one. If this was a common inexpensive watch, I should feel disinclined to accede to this petition. But the words, necessary and ordinary, must be taken to have a relative signification. That is to say, this meaning must be governed by comparison and by circumstances. *Spitzen* v. *Chaffer*, 14 C.B., N.S, 714, shows that there is a substantial distinction between wearing apparel and necessary wearing apparel. In this case I feel myself compelled to look to the reasonableness of the thing, otherwise a man might, as I have said, invest a very large sum in a watch, or it might be in a diamond pin, or some such article, and claim to have the article exempted, thus opening the door to a fraud upon his creditors."

There are some parts of the world in which people consider themselves dressed *en règle* if they have on a necklace or a watch, and nothing else. Before the courts of those countries, if they have any, Mr. Sanborn's pretension might not appear unreasonable. But as our laws and customs permit insolvents to retain more substantial clothing, we take the County Judge's decision to be a perfectly sound one.

INEQUALITIES OF THE BANKRUPT SYSTEM.

On one of the last days of the Parliamentary Session, in England, Mr. Macdonald placed the following notice on the order book of the House of Commons:—"To call the attention of the House to the inequality of the existing bankruptcy laws; and to move, 'That no alteration of the bankruptcy laws can be satisfactory which does not afford to the wage-earning classes a cheap and easy mode of arranging with creditors, in a like manner as the upper or commercial classes.'" Mr. Macdonald is no doubt puzzled by the strange sight of the wage-earning class struggling and pinching in order to make both ends meet, in other words, to pay