

be charged as costs of suit, if so, how many affidavits and the costs of each would be allowed on one subpoena that has, say two to ten names thereon.

Fourthly. As subpoenas or summonses to witnesses can be served by both the plaintiff and defendant, where is the law laid down for the affidavit of the service thereof.

NORFOLK.

March 19, 1866.

[The schedule of bailiff's fees was not made by the judges, but is given in the statute. The first item speaks of the "service of summons or other proceeding except subpoena on each person." These words would appear to include the service of a summons on a juror, but the fee of 7c under the heading "not exceeding \$8," militates against this construction. Upon the whole we think that an allowance of say 10c., the lowest fee for service, might properly be allowed, and such we believe is the practice in some counties, though not in all.

Affidavits of service, when the service has been made by a bailiff, are, we think, chargeable as costs of suit, and in fact necessary to show the amount of the conduct money paid to the witness. Only one affidavit in which all the services can be sworn to, should, when made by a bailiff, be allowed. If the service be made by a party to the suit we do not think it can be charged for.—Eds. L. C. G.]

Division Courts—Attaching and non-attaching Creditors—Priority.

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

GENTLEMEN,—A person absconded, leaving several creditors unpaid. Attachments were issued out of the Division Court in which he resided. Goods were seized and placed in custody of the clerk two weeks before the sitting of the court. Summons left at defendant's last abode. Consequently the cases had to lie over to the next sitting of the court. About two months after the seizure was made, a creditor obtained judgment against the defendant in another Division Court, and immediately ordered out an execution, and employed a bailiff to seize the goods and chattels in the clerk's possession. The clerk of the Division Court out of which the attachments issued had placed some sheep and cattle under the charge of a farmer for feeding. The bailiff aforesaid, armed with an execution and

four or five men went to the farmer's lot and forcibly drove off the cattle, sheep, &c. The same bailiff afterwards went to the clerk's office and attempted to carry off *forcibly* a buggy belonging to the same seizure and said he was ordered by a lawyer to do so. The clerk refused and would not allow any goods to be taken away, and was then threatened with law proceedings.

Now, can goods that have been seized under attachment and delivered to the custody of the clerk be forcibly taken away under cover of an execution issued out of another Division Court?

Should not the judgment creditor file his claim in court, wait the issue of trial and then share *pro rata*?

I cannot for one moment suppose that the law will tolerate such ruffianly proceedings as I have before stated, and will therefore feel much obliged by receiving your opinion upon the subject.

Your obedient servant, L.

[See editorial remarks on page 49.—Eds L. C. G.]

Common School Act—Payment of School Section Auditors.

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

DEAR SIRS,—Is it lawful to pay Auditors of School Section accounts?

I was elected by the ratepayers of a school section for three consecutive years, as auditor, recently. I presented my account for auditing (\$6). The Trustees informed me that the School Act did not contemplate the payment of Auditors, and therefore declined to pay me for my services as auditor. For the information of the numerous auditors of school section accounts throughout the Province, as well as myself, an answer to the above question will much oblige,

J. C.

[See editorial remarks on page 49.—Eds. L. C. G.]

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