

publication, and an affidavit of the insolvent to the effect that he had no estate to assign, together with a schedule of his creditors.

Reference was made to Insolvent Act of 1864, sec. 9, sub-secs. 1, 3 and 6.

The day following judgment was given by

JONES, Co. J.—Under the 9th sec. of the Insolvent Act of 1864 a deed of composition and discharge may be executed by a specified proportion of the creditors which shall be binding on the others who do not so execute. But in this case however, there is no composition. The 3rd and 9th sub-secs refer to a *consent to a discharge* after an assignment. Here, it is true, there is no assignment, but as there is no estate to assign I think the consent would operate in the same manner as if an assignment had been made. I therefore make an order confirming the insolvent's discharge.

Order accordingly.

## CORRESPONDENCE.

### *Attorneys' fees in Division Courts.*

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

GENTLEMEN,—By answering the following question in the next number of your *Local Courts' Gazette*, you will much oblige several of your subscribers:—

A. sues B. in a Division Court, and at the hearing both parties are represented by attorneys. If an adjournment be asked for,—say by A.,—can the judge order him to pay to B. the costs of his (B.'s) attorney, or *vice versa*?

In two cases in the last Division Court at ———, where the parties were represented by attorneys, the judge of our county ordered the party asking for an adjournment to pay the other party the costs of his attorney. Is this course authorized by law?

Yours truly,

A SUBSCRIBER.

Beverly, Jan. 22, 1866.

[There is no authority for ordering the payment of any fees to counsel or attorneys in conducting suits in Division Courts. We think it probable our correspondent has mistaken the purport of the order referred to, or that it was a matter of arrangement between the parties.—EDS. L. C. G.]

### *Witness fees in Division Court—Attending court.*

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—Can a witness in a Division Court suit claim more than ten cents a mile and one half-dollar per day while attending

court? An allowance of half a dollar per day while going to and returning from court in the same county would not be legal, I think. Rule 48 gives the judge the power to regulate witness fees, but in no case to exceed the scale in the schedule. See schedule No. 14, which says:—

Attendance per day *in court* . . . 2s. 6d.

Travelling expenses per mile one way, 0s. 6d.

CLERK D. C. CO. NORFOLK.

[We agree with our correspondent in his view of the matter.—EDS. L. C. G.]

### *Division Courts—Interlocutory Costs.*

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

GENTLEMEN,—Is there any provision in the Division Courts Acts or rules by which the judge can order the costs of an interlocutory proceeding to be paid by either party? *e. g.*: In an order setting aside a judgment for irregularity, can a judge order the payment, by either party, of the costs of the order and the application therefor? or has he any control over such points?

2. Does such an order require a law stamp?

On the above points a diversity of opinion and practice prevails, and an answer in your valuable journal may promote uniformity, and will oblige

Your obdt. Servant,

R. H. MARSTON.

L'Original, Feb. 15, 1866.

[It seems to be the better opinion that, as a general rule, the judge has no authority to order the payment of interlocutory costs. Section 107 seems to give him this power incidentally in cases where a new trial is ordered; but we do not think he would have the power in the case by our correspondent. Every order requires a stamp.—EDS. L. C. G.]

### *Exemption Act, 23 Vic., cap. 25, sec. 4, sub-sec. 6—New points—Important to sheriffs.*

TO THE EDITORS OF THE LAW JOURNAL.

GENTLEMEN,—In reading your remarks in the January number of the *Law Journal*, on the exemptions of debtor's chattels from seizure under a *fi. fa.*, it occurred to me to ask the following questions, which you will, (should you deem them of sufficient importance) oblige by answering through the pages of your valuable Journal:—