that in *all* cases the person giving the notice, whether for two weeks or for the period, and in the manner so designated, was to send notices by mail.

One of the time-honoured fictions of our law is, that every one is presumed to know it; and another, that a notice in the *Official Gazette* is notice to all the world. Our Legislature in framing the Insolvent Act appear to have considered that, however much to be venerated for its antiquity, such a mode of giving notice was of little practical utility; and that it would be well, therefore, that creditors should have *actual notice;* and it is submitted with great deference to the opinion of the learned Chief Justice who reversed the decision of the judge below, that it was intended, under the Insolvent Act, that creditors should in all cases receive actual notice in addition to the two weeks publication; and that in certain cases the publication should be for a longer period.

The Chief Justice appears to have fallen into an error in supposing that sub-section 2 of section 2 *requires* notice to be sent. That section assumes that the notices referred to in section 11 are required, but further provides that they shall be accompanied with a list of creditors.

But if the construction placed upon the 11th section by the Chief Justice be the correct, one, it follows: that although that section professes to *regulate procedure generally*, the Legislature have strangely omitted to make any regulation whatever in the cases to which the words in question apply. The Chief Justice thinks the meaning of those words to be "without a special statement of the matter to which such notice relates." Then section 11—not applying to such cases—for what period, and in what manner are such notices to be advertised? for one week, and in one paper? at whose discretion is it to be varied? by the assignee or insolvent, or by application to the judge? Manifestly it was intended to secure uniformity in procedure by the clause in question. This would be attained by placing this construction upon it which was adopted by the judge below and which makes the whole act consistent. Such construction moreover secures to the creditors, what, in my humble judgment, the Legislature intended they should have, viz., actual notice of the proceedings which were being taken to wipe out their claims.

Yours, &c., A Barrister.

[The matters above referred are well worthy of discussion. The name and standing of our correspondent lend additional weight to the views he puts forward. *Thorne* v. *Torrance* no doubt has taken many by surprise, and, it is hoped, will be reversed in appeal. The case referred to by our correspondent in the latter part of his letter is doubtless that of *In re Waddell*, which our readers will find reported in full in a former page of the present number.—Eds. L. J.]

Death of plaintiff after fi. fa. land issued, but before executed—Revivor.

To the Editors of the U. C. Law Journal.

Gentlemen,—Your opinion on the following question would oblige the undersigned, and, no doubt, many others, being of general interest.

Where the plaintiff in a case dies after a *fi. fa.* lands is issued against the defendant, but before it is executed, is it necessary to revive the judgment? The Common Law Procedure Act provides for the death of a plaintiff before judgment, and between interlocutory and final judgment, but not after execution issues.

The case of *Ellis* v. *Griffith*, 16 M. & W. 106, decides that a *ca. sa.* issued in the lifetime of a judgment creditor may be enforced after his death.

But there appears to be a distinction between executions against goods or the person and an execution against lands—in the former case, the judgment not requiring to be revived (*Clerk* v. *Withers*, 6 Mod. 290; *Harrison* v. *Bowden*, 1 Sid. 29): in the latter, it must be revived; see *Cleve* v. *Veer*, Cro Car. 459, where a writ of extent upon a statute staple was held to have abated under similar circumstances, the Court saying that that was the case of lands which the sheriff had no authority to extend.

But I see no valid reason for the distinction, and the Court of Exchequer in the decision referred to, where all the cases are cited, does not seem expressly to recognise it.

Yours obediently,

A Law Student.

Guelph, August 16th, 1866.

[We think the rule laid down in *Ellis* v. *Griffith* is as much applicable to an execution against goods or lands as to one against the body, and that rule we take to be against the necessity for revivor in the case of the death of plaintiff after execution issued, but before execution executed, (see 1 Chit. Archd. 9 Ed. 169, and *Todd* v. *Wright*, 16 L. J. Q. B. 311). *Cleve* v. *Veer*, when closely examined, is not an authority to the contrary.—Eds. L. J.]

Sheriffs—Mileage.

To the Editors of the U. C. Law Journal.

Gentlemen,—You will greatly oblige by answering the following question in the next issue of the *Law Journal:*—

Has a sheriff a right to charge mileage on a writ of summons where the defendant is living, and is served within half a mile of the Sheriff's Office in the County Town?

Yours respectfully,

J. F. L.

Sarnia, August 17th, 1866.

[We never heard of such a charge being made, and think it unwarranted.—Eds. L. J.]