

on the ground that the debt (for costs) was fraudulently contracted by the plaintiff; and so the judge held and remanded the insolvent to gaol for a month. In giving judgment, *Lynch, J.*, remarked that if solvent parties brought unfounded actions and paid the costs there could be no fault found with them. But he thought nothing could be more harassing and annoying than a party bringing a frivolous and unfounded action, and upon the speculation of getting costs, and if he fails coming into court to take the benefit of the Insolvent Act. Carpenter, who was an attorney himself, well knew that his action was unfounded.

SEPARATE SCHOOLS.

The case of *Stewart and the School Trustees of Sandwich* reported in the last volume of Queen's Bench Reports, is of interest with reference to the position of persons for whose benefit a separate school has been established, but which has, for some cause or another, been discontinued.

The facts of the case appeared to be that Stewart, a coloured man, applied to the School Trustees of the section in which he lived for the admission of his daughter to the common school. This application was refused on the ground, as it was afterwards urged, that the coloured people in the neighbourhood had organized a separate school of their own some time previously, and it was asserted by the local Superintendent of Education and others, that the effect of allowing coloured children into the school would be to break it up altogether. Stewart subsequently applied for a mandamus to the trustees to admit his daughter. The affidavits were conflicting, but the Court thought that no separate school had been established within the meaning of the statute, that even if it had, the statute did not apply to the applicant, at all events that this separate school had been discontinued and had remained so for two or three years previous to the application.

It was attempted to be argued that a separate school having once been established, the persons for whose benefit it was so established had no right to claim to benefit of the common school. But the Court considered it impossible to hold such a doctrine as that, when the separate school if it ever existed had been discontinued. Draper, C. J., saying:—"The creation of a separate school suspends but does not

annul those privileges (of the Common School act) and when the separate school ceases to exist the rights revive. And therefore the applicant, if his rights as a resident of school Section No. 8 ever were suspended, was reinstated in them." Any other view than this, would practically have deprived the applicant of the benefit of a school so long as he continued in that neighbourhood.

The court further considered that no consideration as to the possible consequences of allowing coloured children to attend the common school could have any weight and that so long as there is no separate school in existence and in operation for the benefit of coloured people, they cannot be deprived of the benefit of the ordinary common schools.

AGENTS APPEARING FOR CORPORATIONS.

There are a vast number of corporations, municipal and private, in Upper Canada, and they are frequently in court for one cause or another.

A case of importance as regards actions in the Division Courts by corporations was recently before the "Sheriff's Court" in England, a court answering to our Division Courts. The rule there laid down may probably be too strict in its application to the inferior courts in a new country like ours, but still the rule is clear in the superior courts, and the principles of practice in these courts may be incorporated with Division Court administration.

The Gas Light and Coke Co. v. Pratt (reported in a late number of the *County Court Chronicle*) is the case alluded to. The action was for gas supplied, and an agent appeared for the company. *His Honor* said that a rule of law had been laid down which governed cases of this kind, which was that incorporated companies must appear in proper form before the court.

Agent—I was not aware of it.

His Honor—It is a very proper rule, and I am bound to see it carried out. If, however, the objection is not formally taken, it is no part of my duty to take it.

Mr. George, who appeared for the defendant, said that his client had not been well used by the company, and he felt bound to take every objection, and as there was a very proper rule that an incorporated company can only appear by attorney or under seal, he objected to the agent appearing for the company.