

GOOKIN *v.* UPHAM

Where the plaintiff on the record is insolvent, and the suit is prosecuted in his name for the benefit of an assignee, the Court, on motion, will order security to be given for the defendant's costs.

**MOTION FOR COSTS.** It appeared that on the 13th of October, 1848, the plaintiff assigned all his property, including the demand sued in this action, for the benefit of his creditors, under the laws of this state; that he had no property, except that the creditors granted his household furniture to his wife to induce her to release her dower in the real estate.

The defendant moved that the plaintiff, or the party prosecuting the suit in his name, should be required to give security for such costs as might be recovered by the defendant, on the ground that the plaintiff was insolvent, and the suit was prosecuted in his name for the benefit of another party.

*Jenness*, for the plaintiff.

*Hatch* and *Christie*, for the defendant.

**PERLEY, J.** The Revised Statutes, ch. 191, § 7, give the Court power in all actions and petitions, "to order such security for costs as they may deem just and reasonable."

In this case the plaintiff is shown to be insolvent, and the suit is prosecuted in his name for the benefit of his assignees. We think it just and reasonable that the defendant should have security for his costs.

*Motion allowed.*