

BRYANT v. ABBOT.

No fees are chargeable by an officer for the return of an injunction in a bankrupt cause.

If an officer direct his fees to be paid into Court, it is not an effectual payment, if the money is paid into Court, with funds of the estate, without designation.

ASSUMPSIT, by a deputy marshal for the service and *return* of a writ of injunction, issued by the District Court of the United States, to stay proceedings in a suit commenced by a creditor of a bankrupt.

The defendant, the assignee of the bankrupt, denied his liability for the payment of the fees charged for the return of the process to the Clerk's office, at Portsmouth; and proved, that the deputy marshal directed him to pay his fees into Court, and that he had paid the balance of the proceeds of the estate into the hands of the clerk, and that the amount was more than enough, after paying the other fees and expenses, to pay the bill of the deputy marshal; but the whole sum was paid to the clerk without designating any part as due to the plaintiff.

BELL, J. Such an injunction is neither by its precept nor by the practice of the Court, a returnable process; and the marshal is entitled to his fees for the *service*, without showing it to be returned, but is entitled to no fees for such *return*. A payment of the funds of the estate into the Court, without designating any part as paid for the use of the marshal or his deputy, would not be a payment to the plaintiff. The funds so returned would be, of course, distributed to the bankrupt's creditors.

GRAFTON'S PETITION.

Upon the discontinuance of a highway, the original petitioners are chargeable only for such costs as are occasioned by their opposition to the discontinuance.

PETITION of the town of Grafton for the discontinuance of a highway.