

N. B.]

NOTES OF CASES—THE QUEEN V. PLIMSOLL.

[Eng. Rep.]

Attachment and abolition of Imprisonment for Debt Act, 37 Vic., c. 7, and 38 Vic., c. 4, sec. 1—Whether attachment can issue on contracts made or causes of action arising before passing of Act 37 Vic., c. 7.
(June, 1875.)

An attachment cannot be issued upon a contract made before the passing of the Attachment and Abolition of Imprisonment for Debt Act 37 Vic., c. 7, on the 8th April, 1874.

It is a general rule that a statute shall not be so construed as to operate retrospectively, unless it is expressly made applicable to past transactions, or the words can have no meaning unless such a construction is adopted.—*Smith et al. v. Burke*, p. 130.

Insolvent Act of 1869, section 67—Wages—Privilege—Where servant leaves employment of insolvent before assignment.

(June, 1875.)

A servant who left his master's employ three months before the assignment of the latter, under the Insolvent Act of 1869, is not entitled to be privileged under section 67 of the Act, even though he was obliged to leave the employ because he could not get his pay.—*Ex parte William Napier; In re Case*, p. 134.

Replevin—Claim of property—Whether second writ can be issued after finding of sheriff's jury in favour of claimant—Where property in custody of law—Pleading—Costs.

(June, 1875.)

Where, in a declaration of replevin, plaintiff alleged that defendant took and unjustly detained plaintiff's property, it is no answer for defendant to plead that the goods were in possession of C., and that defendant took them under an execution against him; or under an attachment issued under the Insolvent Act—such a plea neither traversing nor confessing and avoiding the plaintiff's allegation.

When defendant in replevin wishes to raise the question that the property replevied was in custody of the law and therefore not repleviable, he should apply to set aside the writ, instead of pleading it as a defence.

Semble, that the finding of a jury under a writ *de prop. prob.* in favour of the claimant, is not conclusive, and plaintiff may issue second writ.

It is doubtful if a plaintiff can reply to defendant's pleas, and afterwards demur to both the pleas and rejoinders.

Where plaintiff inserted six counts in a declaration in replevin for the same property, no costs were allowed except for one count.—*Harington v. Girouard*, p. 151.

ENGLISH REPORTS.

COURT OF QUEEN'S BENCH.

(Before Blackburn, Quain and Archibald, J.J.)

THE QUEEN V. PLIMSOLL.

Libel—Criminal information—The general principles as to when criminal informations for libels should be granted—Relator occupying a public position—Statements made without malice but beyond limits of fair criticism.

[The Times, June 16, 1873.]

In this case a *rule nisi* was obtained by Mr. Norwood, M.P., for a criminal information against Mr. Plimsoll, M.P., for a libel contained in his well-known book "Our Seamen."

Mr. Norwood was Member of Parliament for Hull and a large ship-owner. The substance of the alleged libel was contained in passages of Mr. Plimsoll's work, which charged that certain ship-owners were in the habit of dangerously overloading their vessels, and otherwise neglecting to provide for the safety of the seamen employed by them; that their fortunes were largely increased by those practices; and that having a personal interest in their continuance, they managed to get some of their number into Parliament, who, in furtherance of their own selfish aims, continually opposed the measures which might be introduced with a view of abating the evil complained of. Mr. Norwood, in his rule, asserted that several of these passages referred to him, and especially complained of statements made by Mr. Plimsoll with reference to a steamship of his (Mr. Norwood's), called the *Livonia*. This vessel, Mr. Plimsoll alleged, was sent to the Baltic with a cargo of railroad iron, five weeks after another ship-owner had declined to take the same cargo, on the ground that the lateness of the season rendered the trip an exceedingly dangerous one. It was further charged that the ship was loaded with nearly 1,600 tons, though she was only 872 register, and that being what is called a spar-decked vessel, in which case the main deck should have been over two feet above the water-line—it was two feet ten inches below that level. After making these statements, Mr. Plimsoll made the following comment: "And this vessel so loaded was sent off to the Baltic in November, or five weeks later than the same freight had been refused by Mr. James Hall, of Newcastle-upon-Tyne, on the ground that it was too late in the season to send a ship without imminent