

JUDGMENT SUMMONS.

We are not in the habit of hearing much in this country about the oppression of the system which is said to allow a debtor to be imprisoned for non-payment of his debts. But when we do, it very often turns out that the imprisonment is more in the nature of a punishment for contempt of Court, or for fraud on the part of the debtor. The following remarks from a legal periodical in England shew that a good deal of virtuous indignation is felt there, as was the case in this country when the subject was before the House of Assembly last session. The *Solicitors' Journal* says:

"Several newspapers have been during the last few days indulging in some choice vituperation against the judge of the Lambeth County Court for having committed a debtor to prison for forty days for non-payment of a debt of a few shillings, the costs being represented as considerably more than the debt. The case is put forward as one of an oppressive landlord using the machinery of the county court for the purpose of punishing an innocent man, and the judge lending his authority to the rich man to enable him to gratify his vindictiveness against a tenant who was too poor to raise a few shillings. The improbabilities of the case thus stated seemed so great, that we have caused inquiries to be made into the exact facts, and we find that they are as follows:—The case was that of *House v. Pike*, heard in the Lambeth Court on the 22nd of December, 1869. The parties are in the same position in life, earning, as labourers, from £1 to £1 4s. per week. The plaintiff had let a room to the defendant, and the action was brought for 12s. 3d. rent in arrear when the defendant gave up possession. The defendant appeared and pleaded that he had received notice to quit, and he was not liable for rent after that notice, although he occupied more than a fortnight afterwards. The judge told him that was all nonsense, he must pay rent for the whole of the time, and then, after inquiring about his means to pay, made an order for payment at 4s. per month. The defendant declared that he only owed six or seven shillings, and would pay no more. In March, June and July in the following year, judgment summonses were issued, none of which the plaintiff was able to serve, and the plaintiff had to lose the costs in each case. Ultimately in April this year a judgment summons was served, and came on for hearing on March 8, when the defendant not appearing, the plaintiff's wife gave evidence as to defendant's means of payment. The judge said it was quite clear he could have paid the sum

of 15s. 8d., the original debt and costs, in a period of nearly a year and a half. It was a case of mere obstinacy, apparently because the defendant was not allowed to be judge in his own case, and he should mark his sense of the defendant's conduct by committing him for forty days. Probably most readers will think that considerable ingenuity was required to make out of these facts a case of 'landlord's oppression' and 'county court tyranny.'"

PROFESSIONAL ETHICS.—The following is now so old, that it may be given to some few perhaps as new, and it is quite good enough to be read a second time. A contemporary, in re-publishing it, calls it "Legal Ethics in one easy Lesson:—"

I asked him whether, as a moralist, he did not think that the practice of the law in some degree hurt the nice feeling of honesty.

Johnson: Why no, sir, if you act properly; you are not to deceive your clients with false representations of your opinion; you are not to tell lies to a judge.

Boswell: But what do you think of supporting a cause which you know to be bad?

Johnson: Sir, you do not know it to be good or bad till the judge determines it. I have said that you are to state facts fairly, so that your thinking, or what you call knowing, a cause to be bad, must be from reasoning, must be from your supposing your arguments to be weak and inconclusive. But, sir, that is not enough. An argument which does not convince yourself may convince the judge to whom you urge it, and if it does convince him, why, then, sir, you are wrong and he is right. It is his business to judge, and you are not to be confident in your own opinion that a cause is bad, but to say all you can for your client, and then hear the judge's opinion.

Boswell: But, sir, does not affecting a warmth when you have no warmth, and appearing to be clearly of one opinion when you are in reality of another opinion, does not such dissimulation impair one's honesty? Is there not some danger that a lawyer may put on the same mask in common life in the intercourse with his friends?

Johnson: Why no, sir, every body knows you are paid for affecting warmth for your client, and it is, therefore, properly no dissimulation; the moment you come from the bar you resume your usual behaviour. Sir, a man will no more carry the artifice of the bar into the common intercourse of society than a man who is paid for tumbling upon his hands will continue to tumble upon his hands when he should walk on his feet.—*Boswell's Life of Johnson*.

Lord Justice Mellish has intimated a strong opinion that a letter written "without prejudice" cannot be a sufficient acknowledgment to take a claim out of the Statute of Limitations.—*Law Times*.