endured for the sake of the greater good which attends it."—*Law Times.*

THE COSTS OF ATTORNEYS' LETTERS.

During the progress of a trial, not very long since, before the Lord Chief Justice of England, it transpired that the writ had been issued and served without the usual preliminary of an attorney's letter demanding payment. His lordship most properly condemned the attorney's conduct in the matter, observing that "nothing could justify such a course but absolute necessity." In another case, *Rinder* v. *Deacon*, 11 Ir. Jur. N. S. 414, it appeared that the defendant (resident in Ireland) paid the amount of his debt to the plaintiff (resident in England) without informing the plaintiff's attorney, and without paying the costs of the writ which had been issued and served. The attorney, knowing nothing of the payment, marked judgment, and levied an execution. The defendant then moved to set aside the judgment, but it was held that the motion should be refused with costs, but that the judgment should be reduced by the amount paid. There Pigot, C. B., said:—"I hesitate about giving costs in favour of plaintiff's attorney, for I think this motion indicates that it is the practice, prevailing too much at present, that an attorney, instructed to collect the debts of an English client, makes the summons and plaint the medium of his demand. The attorney's duty to the community at large and to his client was, *not* to make the summons and plaint the first means of collecting his client's debts, but to apply by letter, in the first instance, to defendant." It is hardly to be expected, however, that attorneys should conduct their business on principles of pure benevolence, and if the duty is imposed on them of writing to their opponents, in the first instance, one would suppose that the suitor who, by neglecting or refusing to pay the demand in question, caused the litigation, should pay the costs of at least one preliminary letter, incident to the recovery of the demand. So, in Bewley on Taxation of Costs, p. 124, it is said:—"As between party and party, the costs of no letter will be allowed except *one* letter of application prior to the issuing of the writ (*Capel* v. *Staines*, 5 Dowl. 770), and such duplicates as the number of defendants may require." To the same effect, see Gray on Costs, 497. The case above referred to, which thus decides, was determined in 1837; and the same proposition was laid down seven years previous in *Morrison* v. *Summers*, 1 B. & Ad. 559. In those cases, however, the previous decision of *Kirton* v. *Braithwaite*, 1 M. & W. 310, was not cited, in which Parke, B., intimated a contrary opinion. In 1859 the question again arose in *Holmar* v. *Stevens*, 6 Jur. N. S. 124, more fully reported 33 L. T. R. 148, where *Kirton* v. *Braithwaite* and *Capel* v. *Staines* were cited and underwent much discussion. There the attorney had written to the defendant demanding payment of two bills of exchange, together with 13s. 4d. costs of application. The amount of the debt was tendered at first without any costs of the letter, but afterwards with 5s. for the letter. The plaintiff's attorneys considered that they were entitled to 13s. 4d. on the ground that, although only one letter was written, the two bills were in the hands of different holders, so that there were two clients and two applications; but they said that they would have been satisfied to accept the 5s. only that then the form for the writ was made out, and the clerk was just then going to issue it. The writ was issued accordingly, and the defendant moved to set it aside. Willes, J., after referring to those facts, said:—"It appears, then, that this writ was issued, not for the purpose of enforcing payment of the client's claim, but for the purpose of exacting payment of what the attorneys had no legal right to. The writ is the commencement of the action, and an attorney has no claim for any letter until a writ is issued. At the time of the Common Law Commission, it was proposed that a simple letter claiming payment should be the commencement of the action; but it was thought that the commencement of an action should be a more solemn proceeding, and the writ was continued. The attorneys having no legal right to charge for the letter, the issuing of the writ for the purpose of exacting payment for it is merely an abuse of legal process." And