respect him accordingly. The title was presumably offered to the gentlemen referred to by reason of their official position, and as an honour to the Courts over which they preside. At the same time it is quite reasonable that if they prefer not to have any such distinction, their wishes should be respected, and they should be free from any charge of want of respect to the powers that be. There is plenty of precedent for their declining the honour. Item—Wherein, so far as the subjects of Her Majesty are concerned, lies the difference between the word "Sir" and the word "Honourable" as a prefix, except in the matter of degree? Yet a person accepting the latter escapes the criticism which sometimes falls upon him who allows himself to be called the former.

## *RECENT ENGLISH DECISIONS.*

PRACTICE—THIRD PARTY PROCEDURE—INDEMNITY.

*Birmingham and District Land Co.* v. *London and North-Western R'y Co.*, 34 Chy. D. 261, is a decision of the Court of Appeal on a point of practice. According to the English Rules the leave of the court must be obtained before a notice can be served on a third party, from whom the defendant claims indemnity. In this Province the notice may be served without leave, but the party served may move to set it aside, and on such a motion the point decided in this case would be an authority. Chitty, J., held (and the Court of Appeal affirmed his decision) that it is not enough for a defendant to say that he claims indemnity from the third party he wishes to serve; but he must show that he has a *prima facie* claim against him for indemnity under a contract express, or implied, or that he has a right thereto on some equitable principle, although the court will not on a motion for leave to serve the notice, determine finally whether the claim is well founded or not. In the case in hand the facts alleged, only showed that the defendants might have a claim for damages against the third parties, and leave to serve the notice was refused. It is well to note, however, that the English Rules of 1883 are more restricted than Ont. Rule 108, the former confining the right to serve the notice on a third party to cases where contribution or indemnity is claimed, whereas the Ont. Rule allows it to be served, not only in that case, but also where "any other remedy or relief" over is claimed.

An application was subsequently made to the court to allow the case to be reargued on the ground that a clause in a Statute had been overlooked in the former argument of the case; but the court refused to accede to the application on the ground that the decision was on a mere point of practice, and the Statute was not so clearly in point that there could be no argument on the question.

PRINCIPAL AND AGENT—ACTION FOR PRODUCTION OF DOCUMENTS IN AGENT'S POSSESSION.

*Dadswell* v. *Jacobs*, 34 Chy. D. 278, was an action brought by a firm of foreign merchants against their agent in England, claiming production of documents relating to their business to a person appointed by them for that purpose. The defendants put in a defence stating that the person appointed by the plaintiffs was a clerk in a rival and unfriendly house of business, for which reason they objected to produce the documents in question to him, but that they were willing to produce them to any proper person, and it was held by the Court of Appeal (affirming Chitty, J.) that this was a good defence; and the court refused to strike out the defence, and give judgment for production to the plaintiffs, or their agents generally, without hearing the evidence.

COMPANY—PREFERENCE SHAREHOLDERS—REDUCTION OF CAPITAL—INJUNCTION.

*Bannatyne* v. *Direct Spanish Telegraph* Co., 34 Chy. D. 287, raises, as Cotton, L.J., says, a very important question. The defendant company, which was formed in 1872, had a capital of £130,000, with power to add to that capital by issue of new shares, and with power to give preference to any new shares that might be thus created. All capital raised by new shares was to be considered part of the original capital. In 1874 resolutions were passed to increase the capital by 6,000 new