

RECENT ENGLISH DECISIONS.

of certain property so as to defeat a creditor who was about to obtain execution; and in a subsequent indictment against them for conspiracy to defraud the creditor, the evidence of the solicitor, as to their communication made to him under these circumstances, was held to be admissible.

The Court adopted the following rule laid down by Lord Brougham on the subject of privileged communications in *Greenough v. Gaskell*, 1 My. & K. 98: "If, touching matters that come within the ordinary scope of professional employment, they (the legal advisers) received a communication in their professional capacity, either from a client, or, on his account, and for his benefit, in the transaction of his business, or, which amounts to the same thing, if they commit to paper in the course of their employment on his behalf, matters which they know only through their professional relation to the client, they are not only justified in withholding such matters, but bound to withhold them, and will not be compelled to disclose the information, or produce the papers, in any Court of Law or Equity either as party or as witness;" but they proceed to point out that consultations with a solicitor for the purpose of enabling the client to see how best to commit a fraud, are not within "the ordinary scope of professional employment," and are therefore not within the terms of the rule. Of course communications made before the commission of a crime or fraud, for the purpose of being helped or guided in committing it, stand on a different footing, as the Court is careful to point out, from communications made subsequent to its commission, with the view to being defended. But, Mr. Justice Stephen adds: "we are far from saying, that the question whether the advice was taken before, or after, the offence, will always be decisive as to the admissibility of such evidence."

MUTUAL RESTRICTIVE COVENANTS — ACQUIESCENCE IN BREACH.

The first case to be noticed in the February number of the Law Reports in the Chancery Division is that of *Sayers v. Collyer* (28 Ch. D. 103) a decision of the Court of Appeal affirming a judgment of Pearson, J. on a different ground from those on which he had proceeded. A building estate had been laid out into lots which were sold to different purchasers, each of whom covenanted with the vendors, and the purchasers of the other lots, not to build a shop on his land, or use his house for carrying on any trade therein. One of the purchasers, who occupied his house as a private residence, brought the action against the owner of another lot, who was using his house as a beer shop, to restrain him from breaking his covenant, and for damages. It appeared, that for three years before the action was commenced, the plaintiff knew that the defendant was using his house as a beer shop, and had himself bought beer at it. There was evidence, that some of the houses built on other lots had been for some time used as shops, and that some of the houses near the plaintiff's were occupied by more than one family at weekly rents. It was held by the Court (differing on this point from Pearson, J.) that the change in the character of the neighbourhood, not being caused by the plaintiff's conduct, was no ground for refusing him relief, yet, that he had lost his right thereto, either by way of injunction or damages, through his acquiescence in the proceedings of the defendant.

ELECTION AGAINST VOIDABLE COVENANT BY MARRIED WOMAN—COMPENSATION TO THOSE DISAPPOINTED.

The next case is *Re Vardon's Trusts* (28 Ch. D. 124), a decision on a branch of the law not often invoked in this Province. A married woman at the time of her marriage being an infant executed a marriage