

PROFIT COSTS OF SOLICITOR MORTGAGEES, &C.—A BOOK ABOUT LAWYERS.

jection was taken were "all such items as either wholly or partially had been allowed," whereby the prior mortgagees would derive any pecuniary profit over and above the money out of pocket.

Vice-Chancellor Stuart stated that he did not intend to decide *whether* or not a solicitor as mortgagee in a suit for redemption and acting for himself; was as a matter of course to have his ordinary full costs of the suit; that was a question to be decided *at the hearing*. If any reason could be suggested why a solicitor's costs should be merely costs out of pocket, it ought then to be stated and the decree ought so to direct, but as the decree in question had not done so, he held that the taxing-master was "bound to proceed in the usual manner, and ought not to take upon himself the trial of questions which went beyond the decree. The Vice-Chancellor therefore refused the motion, without costs.

In *Morgan & Davey's Costs in Chancery*, p. 283, the authors, after citing *Price v. McBeth*, add, "but see *ante*, p. 281," apparently referring to *Craddock v. Piper*, 1 M. & G. 664, there cited, as if it were inconsistent with the ruling in the former case. In *Craddock v. Piper*, 1 M. & G. 664, there cited, as if it were inconsistent with the ruling in the former case. In *Craddock v. Piper*, Lord Cottenham, C. had held (contrary to his impression, see p. 675) that under an order to tax costs generally or to tax costs as between solicitor and client, the taxing masters were at liberty to take notice of the fact that the solicitor is also a trustee, and accordingly in that case to disallow costs, except those out of pocket. His Lordship, however, founded his conclusion on the *practice* of the taxing-master, and even then he thought that there was "a little difficulty in reconciling so large a discretion with what appeared to him to be its proper and legitimate exercise." See p. 676. The inference from *Craddock v. Piper* would rather seem to be, that the *practice* in the taxing-master's office has a very material bearing on the question. It is noticeable, that in *Soliter v. Cottam*, no reference appears to have been made to this practice.

We understand the practice of the taxing-master's office to be—that a solicitor-mortgagee is allowed his costs of suit (coinciding with the rule laid down by Master Wainwright), and this exception to the usual rule, that a party suing in person is entitled only to charge costs out of pocket, may be justified as well on the ground of public policy as upon the principle that a solicitor, as an officer of the Court of Chancery, is, by virtue of his privilege as such, entitled to his fees. Upon general grounds it is certainly advisable that a solicitor-mortgagee should be allowed his profit costs. If this were otherwise, the inevitable result must be either that he would complicate matters by taking the security in the name of a third party (so as not to disclose the fact that he, the solicitor, was himself the real lender), or else he

would employ some other solicitor at a possibly increased expense, inasmuch as the previous knowledge possessed by another solicitor of the title and circumstances of the mortgaged property would probably be less than that of the solicitor, mortgagee himself. Hence it may well be for the mortgagee's own advantage, that this rule should be followed, and this the rather as the costs can be taxed; and the taxing-master would doubtless be ready to tax as strictly when the mortgagee was *his own* solicitor as when he acted by *another*.

The question we have been noticing has been frequently raised of late in the taxing-masters' offices, but in no case has it been adjourned into court. At present the practice may be taken to be as we have said, and we believe the present practice to be the best for all parties. The subject is certainly an important one to the profession.

A BOOK ABOUT LAWYERS.*

This is verily the gossip of the bar. Lawyers pass their lives in discussing the affairs of others: here there own are minutely. The legal profession entails upon its members an intimated knowledge of the virtues, the vices, the foibles, the weaknesses, the habits, at home and abroad, of the rest of the world. They are even called on to become familiar with the little peculiarities and eccentricities of laymen, who come to them for advice, and intrust to them their family secrets,—who, unlocking their closets, invite an inspection of the skeletons within. Now, the profession, of course, has no skeletons; for it is forced to see so many belonging to others, that it finds better things to lock up, whether in its closets at home, or safes at the office: but it has its history, little as well as great, with a strong and a weak side; and little, odd nooks and corners and by-ways, alleys and back doors, as well as the great, broad stone front of solid grandeur and respectability, which it presents to an admiring public. Mr. Jeaffreson has chosen to make these smaller matters the subject of his book. The title-page tells us he is a "barrister-at-law:" whether he has attempted greater themes, and so Apollo, pinching his ear, has admonished him, and sent him to his humbler page, we know not. Enough to say, he has treated this subject quite cleverly, and has managed to fill two volumes, of nearly four hundred pages each, with entertaining and amusing talk about English lawyers. They are presented in almost every conceivable circumstance, from the cradle to the grave. "Lawyers in Arms" is the title of one of his chapters; and such is the comprehensiveness of the work, that one is rather surprised to find, that it is the arms of Mars, and not those of Lucina, that are referred to. Lawyers in the bar and on the bench, on foot and in the saddle, at home and abroad,

* By JOHN CORDY JEAFFRESON, Barrister-at-Law. In two volumes. London: Hurst and Blackett. 1867.