would make for a century to come be a hundredfold greater than the litigation it would prevent? A whole column of the *Times* is devoted by Mr. Locke King to a denunciation of obsolete statutes. We agree with him in this. Everybody will agree with him. All sensible men would rejoice to see every obsolete law expunged from the statute book. Mr. King is an M.P.; he has the power to carry out his own project. Let him bring in a Bill to repeal all obsolete laws, and we promise him the hearty support of the Lawyers, whom he wrongly assumes to be so hostile to all improvements of the law. Why does not Mr. Locke King, a legislator, legislate, instead of writing letters to the *Times*, complaining that others do not legislate? Action is better than talk. Shall we whisper to Mr. King himself *why* he does not bring in a Bill to repeal the obsolete laws, instead of declaiming against them? Simply because *he cannot determine what laws are obsolete;* and the same difficulty that impedes him is the impediment in the path of others.

"This is a specimen of the *un*practical character of so many of our Law Reformers. They preach against the evil, instead of providing the remedy. Had we despotic power, we would prohibit any person from finding fault with anything unless at the same time he shows how the fault might be removed, or the thing better done. Such a decree would relieve the country of nine-tenths of its talk and three-fourths of its printing. It would reduce Parliamentary debates to two or three columns, and leading articles in newspapers to *nil*"

Having been requested to publish in this number the Mill case of *Graham* v. *Burr* decided in the Court of Chancery, we have done so to the exclusion of other matter. The decision is an important one, and as the majority of the Profession have not access to the Chancery Reports, they will no doubt appreciate our endeavour to serve their interests.

DIVISION COURTS.

(Reports in relation to)

(County of Essex.—A. Chewitt, Judge.)

IN RE. WILLIAM CHADWICK.

Attachment—Affidavit.

In 13 several cases of attachment against William Chadwick, summons served on domicile, a third party, Oscar F. Cargill,(*a*) claimed the property. Bailiff issued interpleader summons, served personally to try the validity of sale to Cargill. At the trial, 30th May, *Stuart* for claimant objected to jurat of affidavits—some by illiterate persons—not certified as explained—no places where sworn—no addition, 46 Rule. But upheld under discretion in that Rule and 45th, addition not necessary, 3 U. C. R. 248. Objected, also, that in all the affidavits, after the words—"*hath absconded,*" &c., the affidavits say—"and hath left," instead of "*leaving*" personal property, &c., held sufficient, being the same meaning, if not the very same words. (See *U. C. Law Journal*, 96, Covington cases on *qu.* as to *equivalent* words. This is an *instance shewing* that if *words equivalent* fully could not be used, injury might be done, though not in a part of the affidavit so very *important* as in these Covington cases.) Also objected, that affidavits state in one or other of them, the words—"for timber and beef," "for lumber," "for boarding," "for labour," "for black-smithing," "for pork and oats," "for store goods," "for hay and board at his request," "for paying a debt to James Williams," without adding—sold and delivered—done—found and provided—paid and expended at his request (request not always necessary, 1 Chit. 339) in same case, and one affidavit for £3 12s, not stating nature of debt *at all*. This last not coming up to the requirements of 64 sec., i.e., according to the purport of the Form in the Act, Schedule D., which says, here state the *cause of action briefly*, held bad, the others held good enough under 45 Rule, *as not interfering with the just and real adjudication of the cases*. (But better to follow the safe Forms and instructions in *U. C. Law Journal*, p. 21.)

Also objected, that several of the affidavits stated three of the *causes* mentioned for attachment in the Form and Statute, i.e., "*hath absconded,*" leaving, &c., or, "*that he was about to* abscond from this Province, *or* leave Essex," with intent to defraud plaintiff, (decided in 11 U. C. R. 416, not to be warranted by the Statute, though so given in the old Form D); or, *that he is concealed* in Essex, to avoid process, with intent to defraud, &c., being in the *alternative*.

Held, that the first cause for attachment in the affidavits, i.e., hath absconded, &c., was sufficient under the 45 Rule, and was sound under the case 10 U. C. R. 416; and that if the other *alternatives*, or statements, were not true, or defective, they did not affect what was good (1 Prac. R. 158); and as to their inconsistence or untruth, the defendant, if injured, might move to deprive plaintiff of all costs, for want of probable cause of attachment, or *indict*. See 3 U. C. R. 248. *In* the alternative is good being *distinct* causes of *action*. If *and* had been used instead of *or*, and the several causes of *attachment* were *inconsistent* or *repugnant*, the affidavit might have been bad, *not otherwise*. That there is some ground for using the Form in the *alternative* as the form of warrant given under the Act (none is given in the Forms), Schedule E states, That bailiff is to take and keep the effects of C. D., an *absconding, removing,* OR *concealed* debtor, (not saying—"*as the case may be,*") *or* a sufficient *portion thereof;* and the Form settled in Q. Bench, Meighan v. Pinder, 2 O. S. 292, is in the alternative under the Statute, i.e., attachment, &c., of C. B., "*an absconding or concealed debtor.*"

Also objected, that bailiff should return all *effects* taken at that time, on each attachment, instead of a *sufficient* portion thereof, to secure, &c., (*Law Journal*, 22) appeared relieved on each, while the latter, I think, is the right way. Also objected, that in affidavit and attachment in one case, and in the appraisal(*b*) of several of the cases, defendant is called *Shad*wick instead of *Chad*wick. This may not be quite *idem-sonans*, though so very near it *among ignorant* country people and unskilful J. P.'s, that it is ordered to be amended in the subsequent proceedings, under 37 Rule, and the affidavit held sufficient under the 45 Rule for reasons before stated as to other defects. It may be added, that almost all the affidavits were drawn by a J. P. little *accustomed* to legal niceties or technical terms.

In another case, McMullen *v.* Chadwick, on an award payable to Elliott & Simms, the words (*or order*) happened to be inserted. The action was brought in name of McMullen, instead of E. & S.; award was assigned by *indorsement* formally to McMullen. Affidavit stated that debt was due to McMullen, but also sufficiently showed the arbitration award and assignment, and that *technically* it was *originally* due to E. & S.

Stuart consented that proceedings should be amended, if

(*a*) *Since decided* to be *void* as against *creditors*. The sale not being accompanied by an *immediate* delivery followed by an actual and continued change of possession of the goods sold; nor, instead thereof, was the *paper writing* which purported to be a *conveyance* of the goods by bill of sale (being more like an account of sales, headed—A. B. bought of C. D.—then giving an account of the articles sold, like a common account rendered, and concluding with—Received payment in full by C. D., witnessed), filed in County Court, with affidavit, according to Statute: and besides the absence of filing in County Court, or *immediate* delivery, the whole transaction bore, nearly on every part of it, the badges of fraud as against creditors, though it might have been sufficient as between themselves.

(*b*) Omissions or defects in these formal Acts, as required to be added or indorsed by an officer, is no ground to set aside proceedings under writs. I. P. R. 205; McNider v. Martin.