

MONTHLY REPERTORY.

C. P. Jan. 20.
PHILLIPS AND OTHERS v. POLAND.

Bankrupt—Debts contracted subsequent to Bankruptcy—Arrest—Protection—Creditor.

Where freedom from arrest by any creditor is granted to a bankrupt under 12 & 13 Vic. c. 106, s. 112 (before his final discharge), the bankrupt is not thereby protected from arrest by a creditor, whose debt accrued after the adjudication, for "creditor" in that section means a creditor who could prove under the bankruptcy. (14 W. R. 433.)

Q. B. Jan. 24;
WISSOR v. THE QUEEN.

Criminal procedure—Trial for murder—Discharge of jury without a verdict—Second trial on the same indictment—Record of second trial setting forth the discharge of the jury on the first trial and the grounds thereof—Error thereon—Rule of practice—Review of discretion of a judge by a court of Error—Examination of one prisoner as a witness without having taken a verdict as to such witness—Admissibility of evidence not a proper subject for the consideration of a court of error.

On a writ of error on a record from a Court of Oyer and Terminer and gaol delivery, which record showed that at the Lent Assizes the plaintiff in error and one H. had, on indictment for murder, been put on their trial, and that the jury had been sworn, and the case on the part of both the Crown and of the prisoners had been respectively duly concluded; and that the jury had, on the evening of a Saturday, retired to consider their verdict, and had remained in deliberation until a few minutes before twelve o'clock, and had then declared that they were unable and unlikely to agree; and that for this and other reasons stated on the record the judges of assize had discharged the jury; and that, at the Summer Assize following (from which this record was brought up), it was prayed, on the part of the Crown, that the plaintiff in error might be tried separately on the aforementioned indictment, and that the other prisoner, H., might give evidence on behalf of the Crown; and that the plaintiff in error was then, in pursuance of the prayer, put on her trial, and that H. did give evidence on behalf of the Crown; and that the trial proceeded to a verdict of guilty, and judgment against the plaintiff in error (there being no verdict averred in the record against the other prisoner).

Held, that the discharge of the jury on the first trial was no ground of error against the judgment on a subsequent trial on the same indictment.

That it was in accordance with the present rule of practice for a judge in his discretion to discharge a jury who say they cannot agree on a verdict, and that a court of error cannot review the discretion of a judge so discharging a jury.

That such subsequent trial is no violation of the rule that "no one shall be twice vexed on the same charge."

That the admissibility of evidence is not a subject which can be considered by a court of error. (14 W. R. 423)

EX. BRYANT v. RICHARDSON. Feb. 8.
Infant—Necessaries.

In the absence of special circumstances to make them so, cigars and tobacco cannot be necessaries for an infant. (14 W. R. 401.)

C. P. Feb. 10.
WALTON v. THE LONDON, BRIGHTON AND SOUTH COAST RAILWAY CO.

Contributory negligence—Leaving horse and cart unattended.

The plaintiff's horse and cart were standing in his shop-door unattended, and close behind them were drawn up the defendants' horse and cart, also unattended. The defendants' cart came in collision with the plaintiff's cart, and the plaintiff's horse broke through his shop-window.

Held, that there was evidence of contributory negligence on the part of the plaintiff, which the judge was bound to leave to the jury. (14 W. R. 395.)

C. C. R. (Ir.) Feb. 12.
REG. v. WALLACE.

Where an Act of Parliament makes a gazette evidence, if it purport to be printed "by the Queen's printers," or "by the Queen's authority," a gazette purporting to be printed by A. B. without giving his style as Queen's printer, and purporting to be printed "by authority," is not receivable.

Quære—Would evidence *aliunde* be admissible to show that A. B. was the Queen's printer, and that the authority was the Queen's authority? (14 W. R. 462.)

CHANCERY.

V. C. W. HADLEY v. ROBINS. Feb. 10.

Sale by order of the court—Conditions of sale.

Where conditions of sale incorrectly state the effect of the trusts of a reversionary interest, the purchaser of that interest is not bound to accept the title. (14 W. R. 387.)

V. C. W. Feb. 16.

THE PENINSULAR, WEST INDIAN, AND SOUTHERN BANK (LIMITED) v. DARTHEZ.

Injunction to restrain proceedings at law—Delay—Answer.

Where a defendant has not, within a reasonable time, put in his answer to a bill charging fraud against him, he cannot resist an injunction to restrain him from proceeding in his action at law. (14 W. R. 454)

V. C. W. Feb. 19.

ACOMB v. LANDED ESTATES COMPANY.

Practice—Company—Affidavit as to documents.

A person properly made a party for discovery, as secretary to a company, cannot evade making such discovery simply by resigning his situation after the filing of the bill. (14 W. R. 354)