

same respect in advance of that of England. We are unable to see much difficulty in enacting that persons occupying positions of trust, wilfully abusing their trust for their own gain and benefit, shall be punished by imprisonment in like manner as the clerk who, receiving money for his master, prefers to pocket it instead of putting it in his master's till. We, however, recommend the entire subject to the attention of our readers, earnestly hoping that by the efforts of some of them, a most scandalous defect in our laws may be remedied.

We direct attention to the case of *Jones v. Ketchum*, reported amongst our Chamber Cases of this issue. The points decided in it, as to when and under what circumstances the Courts will refer Attorneys' Bills for taxation, and the duty of the master upon such references are of no ordinary interest.

Now that the world is startled by the perpetration of astounding frauds in England, France, the United States and Canada, it is time for people to look well to their laws. That the English criminal law is defective is a matter of notoriety—that our law is equally so cannot be concealed. In another place we give in addition to our own editorial remarks, an article from the *English Law Magazine and Law Review*, headed "The Late Frauds."

We insert in other columns a short and instructive article on the subject of Alibis, copied from the *Law Times*.

We have watched with much interest, the progress of the Consolidation Bills in England. Until very recently everything augured well for their success; but now we learn that some of the bills, though introduced, have been dropped by the English Government. The cause assigned, is that a coterie of members bent on codification and not consolidation, in order to prevent the success of a rival scheme, determined to obstruct the Consolidation Bills. With opposition of any kind, resulting in amendments, consolidation would become the work of a century, instead of a session. We hope better things for our Consolidation measures when introduced.

A measure has passed the English House of Commons, the effect of which will be to throw open the Ecclesiastical Courts to the entire profession, by destroying the exclusive privileges of proctors.

The Chief Justices and Judges of the Superior Courts have, pursuant to Co. C. P. A., 1857, framed rules for Pleading and Practice in County Courts. They are published, and may be had from Maclear & Co., Toronto. Price, 2s. 6d.

MONTHLY REPERTORY.

CHANCERY.

L. J. PEARL v. DEACON. July 16.

Principal and Surety—Discharge.

A surety joined in a note to secure one half of a debt due from a tenant to his landlord, the debt being also secured by a bill of sale of the debtors furniture. The creditor afterwards took the furniture under a distress for rent.

Held, that the creditor thereby discharged the surety to the extent of one half of the whole distress.

V. C. W. THE BRITISH EMPIRE STEAM SHIPPING COMPANY v. SOMES. June 2, July 21.

Discovery—Common Law Procedure Act, 1854, sec. 3—Compulsory reference to Arbitration—Production of Documents.

The defendants to an action brought to recover from them the excess upon a bill paid under pressure, obtained on order under the Common Law Procedure Act 1854, sec. 3, for a compulsory reference to arbitration. The plaintiffs had filed a bill for discovery as to matters relating to alleged overcharges in the account of the defendants in aid of the arbitration. Demurrer to this bill over-ruled, the compulsory arbitration provided by the Common Law Procedure Act, being like other legal proceedings which Courts of Equity will aid by discovery, and not in the nature of a reference to a tribunal agreed upon by both parties.

Upon motion for production of documents.

Held, that the plaintiffs were not entitled to see the accounts of the prices actually paid by the defendants to their workman in reference to the work, in respect of which the bill in dispute had been sent in, but that the plaintiffs were entitled to see the returns as to labour done and materials used.

V. C. W. SYMPSON v. PROTHERO. July 23.

Solicitor and Client—Common Law Procedure, Act 1854, sec. 65

By an order made in a suit, £600 is ordered to be paid by C. D. to E. F. A. B. who has acted as Solicitor in the suit for E. F., claims a lien upon this money for his costs and serves C. D. with notice not to part with it. Subsequently to this notice an order is obtained at Common Law, directing C. D., as Garnishee to pay the £600 to G. H., as judgment creditor towards satisfying a judgment debt due from E. F.

Held, that A. B. did not thereby lose his lien.

V. C. K. WILSON v. LESLIE. July 16, 20.

Defaulting Executor—Deposit by of property belonging to Testator for debt of Executor—Debtor and Creditor.

R. B. L. a surviving executor, entitled as next of kin and personal representative of W. L. a deceased Co executor, deposits a lease belonging to his testator with creditors for a private debt of own. W. L. is an appointee under a power created by the will of the testator. In an administration suit R. B. L. is found to be a defaulting executor; and a bill being filed to recover the lease by parties interested under the testator's will.

Held, that R. B. L.'s interest as personal representative and next of kin of W. L. is not liable for R. B. L.'s default, that the lease must be brought into Court with an inquiry as to what was due from the estate of the deceased executor W. L.

COMMON LAW.

EX. COLLETT v. FOSTER. June. 9.

Attorney and Client—Responsibility of Client for irregular process.

An Attorney retained to enforce a judgment, issued *n. Ca. Sa.* when the debt was reduced below £10, under which the defendant was arrested. The *Ca. Sa.* was set aside and defendant ordered to be discharged.

Held, that the plaintiff on whose behalf the writ issued was liable for the arrest and imprisonment that followed upon it.