

## RECENT ENGLISH DECISIONS.

at once have reclaimed the money, but Cotton, L.J., expressed no opinion on the point, but the Court was unanimous that after the winding up order all right of reclaiming the money was gone.

## COPYRIGHT—INFRINGEMENT—COPIES OF MATERIAL PORTIONS FOR PRIVATE DISTRIBUTION.

In the case of *Ager v. Peninsular and Oriental Steam Navigation Co.* (26 Ch. D. 637), we have an important decision of Kay, J., on copyright law. The plaintiff published a collection of words suitable for being used in transmitting telegraphic messages in cypher, and for which he had a copyright. The defendants purchased a copy, and from it compiled for their own use, with its aid, a new and independent work, as alleged, which was their own private telegraph code; but instead of printing their code of signals, so far as it was original, separately as an adjunct to the plaintiff's book, they printed in their own book the bulk of the words from the plaintiff's book, appending to them numbers and meanings of their own, and distributed copies in their book among their agents at home and abroad, but had not printed their book for sale or exportation.

KAY, J. was clearly of opinion that what had been done by the defendants was an infringement of the plaintiff's rights. "To multiply copies of a material portion of a work which is entitled to copyright is as much a breach of the law, though differing in degree, as to multiply copies of the whole work, and it has long been settled that multiplying copies for private distribution among a limited class of persons is just as illegal as if it were done for the purposes of sale."

## ATTACHMENT FOR CONTEMPT OF COURT—RIGHT OF SHERIFF TO BREAK OPEN OUTER DOOR TO EXECUTE WRIT.

In the case of *Harvey v. Harvey*, 26 Ch. D. 644, Chitty, J., was called upon to

determine whether, upon an attachment issued for contempt of court in not delivering deeds pursuant to the order of the court, a sheriff is bound to break open the outer door of the contemnor's residence, if necessary, for the purpose of executing the writ. The recalcitrant party in this case was a clergyman who had barred himself in his house and refused to allow any one to enter it. He had, moreover, written to a newspaper a letter in which he pretended to mistake the sheriff's officers for thieves or tramps, and with the object of deterring the officers from entering the house, he intimated that he was armed with a revolver. Under these circumstances the sheriff had failed to arrest the defendant, alleging that he was not entitled to break into the house for the purpose of his arrest. After an elaborate review of the authorities the learned judge arrived at the conclusion that although in the execution of merely civil process at the suit of a subject (such as a writ of *feri facias*) the sheriff cannot break open outer doors, he can do so on a writ of attachment for a contempt of court of such a nature as the defendant had committed.

This case appears to create a doubt as to the right of a sheriff in this Province to break open an outer door in the execution of a writ of *habere facias possessionem* in the form given in the rules appended to the Judicature Act. (See Form No. 178.) The English form (See Imp. Rules, 1883, app. H. No. 8) has the words, "Therefore we command you that [you omit not by reason of any liberty of your country but that you] enter the same." It will be seen that the words in brackets are omitted from the form in use in this Province, and yet it would appear from *Harvey v. Harvey* that it is by virtue only of the *non omittas* clause in brackets that a sheriff is entitled to break open outer doors in the execution of such writs.