

and Registrar, requires an application in Chambers to obtain the money.

The new orders do not vary the old practice requiring three weeks' notice of motion to be given, or three weeks to elapse from the date of the order *pro confesso*, before a decree can be obtained; but simply require that all such causes shall be entered with the Registrar ten days before the day of hearing. Cases under order xvii. of the 3rd June, 1853, are excepted.

All Master's reports must be filed at Toronto, the same as heretofore: we presume for the same reason that affidavits are to be filed with the Registrar there in cases where the Court or a judge in Chambers is applied to for decrees or orders founded upon the evidence contained in them.

We think these new orders will be found productive of much good, and only regret that the reforming hands of the Vice-Chancellors were not more bold and active in regenerating the fossilized practice of Chancery.—Eds. L. J.]

## MONTHLY REPERTORY.

### COMMON LAW.

Q. B. REG. v. WHITE. June 12.  
*Coroner—Power to take a second inquisition.*

A coroner cannot take a second inquisition upon the same body, the first inquisition being valid, and subsisting.

C. P. PHILEY v. HAYLE. June 13.  
*Attorney's signed bill—Agreement for lump sum for attorney's labour as an attorney.*

An agreement by a client with his attorney, that the latter is to receive a lump sum for labour done as an attorney in the event of success, and costs out of pocket only on failure, is void; and a bill delivered claiming the lump sum in one item, under such an agreement, is not a sufficient bill to deliver a month before action.

EX. WATSON v. BEAVEN. June 8.  
*Award—Reference under Common Law Procedure Act—Enlargement of time after expiration of time limited by Act.*

The Court has power, by virtue of the Common Law Procedure Act, to enlarge the time for making an award where a cause has been referred by a judge's order under the 4th section of that Act, notwithstanding more than three months has elapsed, since the arbitrator was appointed; and has made a void award after the expiration of such three months.

EX. CHINERY v. VIALLE. Feb. 25.  
*Damage—Sale—Re-sale by Vendor—Trove.*

Where sheep were sold, but not delivered, and before the price had been paid, the credit not having expired, were re-sold by the vendor to a third person.

*Held*, that trover would lie, but that the measure of damage ought not to be the price of the sheep, but the damage actually suffered.

EX. CROSS v. DURELL. March 7.  
*Costs—Taxation—Allowances for witnesses—Expenses not paid—False affidavit of increase—Review of Taxation.*

An attorney told his client before action that costs of witnesses must be paid previous to taxation, and gave him a list containing the names of his witnesses and the amount of their expenses. The client afterwards gave him receipts of the different witnesses for

such sums. The attorney in the affidavit of increase swore that he had caused the witnesses to be paid. The master allowed the expenses upon taxation. It was afterwards discovered that the witnesses had not been paid until after taxation. The court directed the master to review the taxation, and to disallow all such expenses as had not been actually paid at the time of the previous taxation.

EX. JONES v. DAVIS. April 23.  
*Merger—Estate by courtsey.*

A lease for years in the husband does not merge in his estate by courtsey initiate on the birth of a child.

EX. C. RUSSELL v. THORNTON. June 19.  
*Shipping—Insurance—Time policy—Withholding material information—Waiver—New contract.*

A time policy was affected between A. & B. to ensure for January 21, 1857, to January 20, 1858. The defendant B. subscribed it on January 19, 1857. Plaintiff A. had effected the insurance through C. & Co., his brokers. On January 15 A. had received notice that the ship had been on shore on January 2, 1857, and was forced to go into port for repairs. A communicated this fact to C. & Co., his brokers, who did not communicate it to B; B. afterwards heard of it, and wrote to A as follows:—"Understanding that the ship has been on shore, I do not consider that my risk commences until the vessel has been surveyed and repaired." The ship was repaired by April 2, and was afterwards lost.

*Held*, affirming the judgment of the Court of Queen's Bench—1st That the non-communication of the fact of the ship having been on shore being material to the risk, and thus avoiding the policy, the letter of defendant B. did not act as a waiver of this non-communication, B. being ignorant of such non-communication at the time. 2nd That even supposing the terms of the above letter to be sufficiently explicit for such a purpose, there was no new contract between the parties for want of acceptance of its terms by the plaintiff A.

### CHANCERY.

M. R. LEWIS v. PENNINGTON. May 7.  
*Discovery—Solicitor and Client—Privileged Communication—Exceptions to answer—Pleading.*

Where a client has made a confidential communication to his solicitor, the latter is not protected from giving discovery if, before or after the confidential communication, he has acquired the same knowledge from another source. The fact of the confidential communication from the client does not merge the other sources of information.

Everything which is pleaded must be taken most strongly against the person pleading.

V. C. S. GRIFFITHS v. COWPER. June 12.  
*Practice—Substituted service—Decree directing payment of money—Defendant abroad on Her Majesty's service.*

The court will order substituted service of a decree, which directs payment of money by a defendant, who is stationed abroad on Her Majesty's service, without evidence of any attempt to serve him personally.

V. C. S. BORTON v. DUNBAR. May 31.  
*Will—Construction—"Remainder of my money and effects"—"Suitable present for my Godson"—Reversionary Interest.*

A testator, while returning to England on sick leave, made his will, by which, after bequeathing two legacies of £10 each, and directing that his portmanteau, &c., should be sent to his father, proceeded thus: "I beg that the remainder of my money and effects be expended in purchasing a suitable present for my God-