

The new Rules have been numbered in continuation from the Consolidated Rules, and we believe it is intended to take advantage of the publication of this new batch to include and republish with them all other Rules which have been passed since the consolidation, which will prove a convenience to practitioners.

We understand that Messrs. Holmsted and Langton are hard at work on a new edition of the Judicature Act and Rules, which will, no doubt, be welcomed by the profession.

### CURRENT ENGLISH CASES.

TRUSTEE—STATUTE OF LIMITATIONS—TRUSTEE ACT, 1888 (51 & 52 VICT., c. 59, s. 8)—(54 VICT., c. 19 (O.))—MORTGAGE—SALE OF MORTGAGED PROPERTY—FRAUD OF AGENT OF MORTGAGEE—CONCEALED FRAUD.

In *Thorne v. Head*, (1894) 1 Ch. 599, the Court of Appeal (Lindley, Kay, and Smith, L.JJ.) have affirmed the judgment of Romer, J., (1893) 3 Ch. 530 (noted *ante* p. 90). The action, it will be remembered, was brought by a subsequent mortgagee to recover the surplus proceeds of a sale of the mortgaged property effected by the defendants as prior mortgagees, whose solicitor had been permitted to retain the surplus in his hands, which he misappropriated, having lulled inquiry by continuing for some years to pay the second mortgagees interest on their mortgage. The Court of Appeal agreed that this payment of interest had not the effect of keeping alive the claim against the first mortgagees, who were not parties or privies to the payment, nor cognizant of their solicitor's fraud. They also agreed that the cause of action arose when the first mortgagees received the purchase money: also that the defendants could not be deemed to have been guilty of the fraud perpetrated by their solicitor, nor was his fraud one for which they were legally responsible as having been committed by their agent for them or for their benefit, inasmuch as the solicitor's sole purpose was to benefit himself. Neither as far as the defendants were concerned was the time for bringing the action extended by reason of the concealment of the fraud by the solicitor, because the defendants were not parties to such concealment; neither could the fund be deemed to be in the defendants' possession or converted to their own use within the meaning of the Trustee Limitation Act, 51 & 52 Vict., c. 59, s. 8 (54 Vict., c. 19, s. 13 (O.)). The Act, therefore, furnished a good defence.