

REVIEWS.

incorporated for the purpose of making and maintaining a railway, and their capital was limited. If they could accept these bills they might accept bills to any extent, or it would be necessary on every occasion when one of their bills was taken by a third person to inquire whether it was within their power to accept it. If they could accept the bill and judgment was obtained upon it, all their previous creditors would be postponed to the judgment creditor. No authority has been found in favour of the plaintiffs, though there are many where the Courts have held that this power did not exist. The first object of a railway company is to make the railway, and, incidentally, they may become carriers. No corporation, except those established for trading purposes, have the power of accepting bills, and even with them trade must be the primary object for which they are incorporated.

Rule absolute for a non-suit.

REVIEW.

THE DIVISION COURTS ACT, RULES AND FORMS, with numerous Practical and Explanatory Notes, together with all other Acts and portions of Acts affecting proceedings in Division Courts, and many new and useful forms, and a Table shewing all the Division Courts in Upper Canada, their several limits and names of officers, with a complete Index. By HENRY O'BRIEN, Esq., Barrister-at-Law, joint compiler of Harrison & O'Brien's Digest, and one of the Editors of the *Upper Canada Law Journal* and *Local Courts' Gazette*. Toronto: W. C. Chewett & Co. 1866. Price, \$2.

The object which the Editor of this most useful work had in view was to annotate the Division Courts Act and Rules by notes explanatory of the text, as well as practically useful to professional men and others, and particularly to the officers concerned in the administration of the courts.

The Editor has thoroughly attained his object. His notes are not merely explanatory of the text, but so practical as to be of great value to the profession and all others who in any way may find it necessary to consult the Division Courts Act. The notes are couched in language terse and to the point, and yet so free from technicality as to be intelligible to all men who can read and understand the English language. Knowing the industry and ability of the Editor, we had formed high expectations as to his projected work, and we confess that high as were our expectations they have not been disappointed.

The Division Courts have now become local institutions of the country, presided over by the same judges who preside over our County Courts or inferior courts of record. The amount of business disposed of in the Division Courts is greater than many imagine, and so great as in several counties severely to

tax the knowledge and patience of the judge, and occasionally such as to make it worth the while of professional men of good standing to appear in the courts. If some provision were made for the allowance of moderate counsel fees, we venture to believe that the judges of Division Courts would, in a short time, have, in all cases of intricacy the assistance to be derived from the ability of learned and trained counsel. This would not merely be a great aid to judges who, without such assistance, are frequently called upon to determine questions of much nicety without the benefit of proper legal discussion, but tend to raise the courts in the estimation of the profession and the public.

As it is, no professional man whose practice is at all extensive is free from the necessity of understanding the Division Courts Act. Questions of jurisdiction as between the several courts of inferior jurisdiction daily present themselves to his consideration. Applications for writs of *certiorari* are of frequent occurrence. The proper scale of costs to be followed in a particular case, as between the Division Court and the County Court, is at times a matter of considerable difficulty. Suits on Division Court bonds and covenants are often instituted, and in their disposal generally demand an accurate knowledge of Division Court jurisdiction and practice. Actions against Division Court bailiffs for things done by them in the execution of their office, and the appropriate remedies therefor, are as often subjects for consideration. Criminal prosecutions, under special provisions contained in the Division Courts Act, are not of unfrequent occurrence. — On all these and similar points, valuable information is to be found in Mr. O'Brien's work.

To clerks, bailiffs, agents, and others whose calling requires an intimate knowledge of the working of Division Courts, the book will be of incalculable value. Indeed we feel certain that as soon as its usefulness is known, no clerk, bailiff, or agent will venture to be without this book one day that can be avoided. It is not merely a guide, but a safe guide to all who stand in need of a guide. All may profit by the learning and care here bestowed; and all who become purchasers of the work and open it must profit by the use of it. The collection of decided cases is most complete and reliable. This we have tested with care, and have been well satisfied with the result of our test.

In order that an example may be given to the reader of the learning evinced in the preparation of the work, we transcribe a note from page 31, on writs of *certiorari*:—

"A *certiorari* is an original writ issuing out of Chancery or the King's Bench [but is under this section confined to the Superior Courts of Common Law], directed in the King's name to the judges or officers of inferior courts, commanding them to return the records of a cause pending before them, to the end the party may have the