

The Canada Law Journal.

VOL. XXVI.

APRIL 16, 1890.

No. 7.

THE Queen's Bench Divisional Court, in *Lamb v. Young*, a note of which will be found at page 219 of this number, following *Johnson v. Hope*, 17 A.R., ante p. 87, decide that an assignee for benefit of creditors under R.S.O., c. 124, suing to set aside as void a mortgage of real estate made by his assignor when insolvent circumstances, to a creditor, must, in order to succeed, establish that the creditor knew at the time he took the mortgage that the mortgagor was insolvent and unable to pay his debts in full. This is a decided advance on *Molson's Bank v. Halter*, 16 A.R., 323.

WE would, in the interest of the profession, most respectfully suggest to the Finance Committee of the Benchers, the desirability of obtaining a repeal of sec. 19 of the Solicitors' Act, relating to fines for failure to take out the annual certificates at the times prescribed. The amount of the fine exacted by the Society from struggling solicitors is altogether excessive and needlessly severe to obtain the end desired, and is, in truth, what it is called and purports to be, a penalty. We know of one instance where a practitioner who had just hung out his shingle was mulcted in the sum of \$12, and compelled to pay it, at a time when he was struggling for bare existence. In cases of oversight, the rule operates in a manner not only unjust but oppressive. We would suggest that sec. 19 be repealed, and instead of the antiquated system of penalties, an amendment to the Act be obtained, making the fee for annual certificate \$20, to be reduced to \$17 if paid at the time prescribed. We think this would be sufficient to ensure punctual payment, and the Society would not then occupy the odious position of levying a tribute on the profession.

EQUITABLE EASEMENTS.

We extract the following article on this important subject from *The American Law Register*. The author, after defining an equitable easement to be a right without profit which the owner of land has acquired by contract, or estoppel, to restrict, or regulate, for the benefit of his own property, the use and enjoyment of the land of another, and distinguishing legal from equitable easements, proceeds: