RECENT ENGLISH DECISIONS.

(Continued from page 30.)

Practice—Third party procedure—Indemnity after service of writ.

The short point decided by Bacon, V.-C., in *Edison* v. *Holland*, 33 Chy. D. 497, is that a third party against whom the defendant claims indemnity may be notified whether the contract to indemnify has been entered into by such third party before or after the service of the writ.

Solicitor and client—Bankruptcy of client—Purchase by solicitor from trustee in bankruptcy—Concealment of facts.

Luddy's Trustee v. *Peard*, 33 Chy. D. 500, was an action brought by a trustee in bankruptcy, to set aside a sale made by a former trustee of the same estate to the defendant, who had been solicitor of the bankrupt, and by means of such relationship had acquired peculiar information as to the subject-matter of the sale, which he had concealed from the trustee. The sale was set aside by Kay, J., who held that the obligations on a solicitor dealing with his client, extend to the case of a dealing between the solicitor and the trustee in bankruptcy of his client, the purchase in question having been effected by the solicitor in the name of his brother for a grossly inadequate price, and upon a suggestion that he was acting for the benefit of the bankrupt's family.

Company—Power of directors—Payment of costs of legal proceedings for libel against company and directors—Payments for proxy papers.

The action of *Studdert* v. *Grosvenor*, 33 Chy. D. 528, was brought by the shareholder of a company, to compel the directors to refund moneys alleged to have been misapplied by them. Part of the moneys in question had been expended in payment of the costs of a criminal prosecution instituted by the directors against the publishers of a newspaper for a libel impugning the directors' honesty in the management of the company, and in which the publishers had been convicted. As to these costs, the libel not being against the company, Kay, J., held that they ought not to have been paid out of the company's funds, but he refused an injunction, and following *Pickering* v. *Stephenson*, L. R. 14 Eq. 322 (the payments having been sanctioned at a general meeting), he also refused to direct repayment by the directors.

Another part of the moneys in question had been applied in the successful prosecution of one B. for libelling both the company and the directors, and it was held that these costs were properly paid out of the company's funds. A third part had been applied in printing and transmitting 150,000 circulars to shareholders, and enclosing proxy papers in favour of the directors, and postage stamps for their return, and it was held that this was an unauthorized application of the company's funds beyond the power of a general meeting to sanction, and a perpetual injunction was granted restraining the company and the directors from thus applying the company's funds. But an order to refund the moneys, expended was refused.

Executor—Interest on moneys ordered to be refunded—Payments made in mistake of law.

In re Hulkes, Powell v. *Hulkes*, 33 Chy. D. 552, Chitty, J., took occasion to dissent from *Saltmarsh* v. *Barrett*, 31 Beav. 349, in which Sir J. Romilly, M.R., had held that where an executor is ordered to refund moneys which they have *bona fide* distributed upon what turns out to be an erroneous construction of his testator's will, should not be required to pay interest on the sum refunded. This he held to be a departure from the principle established by the higher authority of *Attorney-General* v. *Kohler*, 9 H. L. C. 654, and the *Attorney-General* v. *Alford*, 4 M. & G. 843. But although deciding as a general rule that executors are chargeable with interest on such sums, yet he held they should not be charged with interest in favour of a person who had participated and acquiesced in the erroneous distribution.

Lessor and lessee—Prehistoric chattel discovered in demised premises.

The case of *Elwes* v. *Brigg Gas Co.*, 33 Chy. D. 562, presents a curious state of facts. The plaintiff had leased land to the defendants for ninety-nine years, reserving all mines and minerals, the lessees were authorized to erect gas works on the premises. In the course of excavating for these works an ancient prehistoric boat about forty-five feet long, and