

## DIGEST OF ENGLISH LAW REPORTS—GENERAL CORRESPONDENCE.

## EXECUTION.

By 8 & 9 Vict. c. 10, § 36, "If there cannot be found sufficient whereon to levy" an execution against a company, then such execution may be issued against any of the shareholders, up to a certain limit. Where there was property of the company which had not been taken on execution, but which was not sufficient to satisfy the plaintiffs' debt, *held*, that the latter were entitled to execution against a shareholder.—*Ilfracombe Railway Co. v. Lord Pollimore*, Law Rep. 3 C. P. 288.

EXECUTOR AND ADMINISTRATOR.—*See ADMINISTRATION*; WILL, 6.

## EXONERATION.

In the will of one dying before 30 & 31 Vict. c. 69 came into operation, a direction, that all his debts should be paid "out of his estate," does not entitle a devisee of mortgaged land to have the mortgage debt discharged out of the residuary real estate, under Locke King's Act (17 & 18 Vict. c. 113).

By a specific devise of one of two estates comprised in the same mortgage, the other being left to pass by a residuary clause, will make the latter first liable in exoneration of the former.—*Brownson v. Lawrence*, Law Rep. 6 Eq. 1.

## FACTOR.

By the Factors' Act, 5 & 6 Vict. c. 39, § 1, "Any agent who shall thereafter be intrusted with the possession of goods" may make a valid pledge of the same, although the pledgee know of the agency. A party, to whom the plaintiffs had sent wine for sale, pledged the same to the defendants after his authority had been revoked and the wine demanded of him by the plaintiffs, but wrongfully detained by him. The *bona fides* of the defendants was not questioned. *Held*, that the pledgor was not "an agent, nor intrusted, within the meaning of the act."—*Puentes v. Montis*, Law Rep. 3 C. P. 268.

## FALSE IMPRISONMENT.

Defendant, upon whose premises a felony had been committed, acting on information given him by his own coachman, the most material part of which was derived from R., a neighbor's coachman, gave the plaintiff into custody on the charge, without making any personal inquiry of R. The plaintiff was living openly in the neighborhood, and it was not suggested that he was likely to run away. In an action of false imprisonment, the judge instructed the jury, that, under the circumstances, there was no probable cause; and the verdict being for the plaintiff, the Court of

Exchequer Chamber refused to disturb it.—*Perryman v. Lister* (Exch. Ch.), Law Rep. 3 Exch. 197.

FOREIGN ATTACHMENT.—*See ATTACHMENT*.

FRAUD.—*See MORTGAGE*, 1.

FRAUDS, STATUTE OF.—*See DAMAGES*, 2; SPECIFIC PERFORMANCE, 4; TRUST, 1.

## GENERAL CORRESPONDENCE.

*The duty of a Counsel to the Public and his immediate Client.*

TO THE EDITORS OF THE CANADA LAW JOURNAL.

MESSRS. EDITORS,—The recent state trial of Whelan, at Ottawa, has brought prominently before the public the duty of an advocate to any client who may require his services. The press has very generally alluded to it, and some papers, and even meetings of Orangemen, have condemned the Honourable J. H. Cameron for taking up the defence of Whelan, on the ground of his wicked crime, as well as because he is supposed to be a Fenian. The importance of this matter has induced me to ask you to insert these extracts from Chief Justice Richards' charge, and the opening remarks of Mr. Cameron in his speech in defence of the prisoner, which bear on the question at the head of this article. I also accompany them with some remarks of my own:

## CHARGE OF CHIEF JUSTICE RICHARDS.

"His lordship wished to say a few words with regard to the position and duty of an advocate. If a professional man permitted himself to use his discretion as to what cases he would engage in, the effect would be that he would never be found in a case in which he could not gain by money or by credit. The advocate would be merchandise sold to the highest bidder. This is not the way in which the profession acts. It is the duty of every lawyer to accept every retainer; and any man, whatever his station, has a right to insist that his case be taken up. But if he takes other duties I have nothing to say—that is fair ground or public comment."

Coming, as these remarks do, from such a high authority, I am very diffident to question them. But I must say that it seems to me, after all, that a certain discretion is allowed to the advocate, otherwise not only would the feelings of the advocate be occasionally greatly outraged, but he might even be insulted if not tyrannized over by a client.