

the specified weight, returned the tickets and obtained credit in account for the loaves so delivered; but, before the time for the payment of the money arrived, the fraud was discovered. It was held that this was a case within the statute against false pretences, because the defendant had been guilty of a fraudulent statement of an antecedent fact, and had not merely sold goods to the prosecutor upon a misrepresentation of weight or quality; and it was held also that although the defendant had only obtained credit on account, and could not therefore be convicted of the complete offence he might be convicted of an attempt to obtain money by having done all that depended on him towards obtaining it.

Mere exaggeration or puffing of goods in the case of a bargain, is not a false pretence within the meaning of the statute; but a wilful misrepresentation of a definite fact with intent to defraud, is a false pretence indictable under the statute: as where a seller represents the quantity of coals to be fourteen cwt, whereas it is only eight, but so packed as to look more; or where the seller by manœuvring continues to pass off tasters of cheese or butter as if extracted from the cheese or firkin offered for sale, whereas it is not; and a false and fraudulent statement to a pawn-broker, that a chain offered as a pledge is silver, is also indictable as a false pretence, if money is thereby obtained. But if the prosecutor, when he parted with his money, knew the representation to be false, the indictment cannot be sustained.

(To be continued.)

### CONFESSION OF DEBT BEFORE ACTION BROUGHT.

The 117th section of the Division Court act authorises the clerk or bailiff of a court to take a confession or acknowledgment of debt *before* as well as after a suit commenced, and judgment rendered on the confession will be as binding in one case as in the other, provided the requirements of practice, to prevent such judgments by confession before suit being perverted to fraudulent ends, are complied with. As the saving of time or expense may make it expedient in some cases to obtain a debtor's confession without waiting to sue out a summons we would briefly direct attention to provisions of Rule 31 regulating the practice:—

1st. Every confession or acknowledgment of debt taken before suit commenced must show

therein or by statement attached thereto at the time of taking thereof the particulars of the claim or demand, for which it is given, with the same fulness and certainty that would be required if the claims were sued on in the ordinary method.

Two methods are indicated by which the particulars are to be shown. The former is the better, namely, to show the particulars in and as part of the confession, thus taking the ordinary form of confession as a guide after inserting the sum confessed add, if on a promissory note, "Upon a promissory note for the sum of — dated the — day of —, 18—, made by *me* and payable to the *plaintiff* — months after date," (describing the note accurately) or if on an open account, say upon the following account, namely. Then insert the account in detail, and so for any debt describing the nature thereof. The conclusion of the confession will be the same as in the ordinary form. If it is found more convenient to attach a statement of claim to the confession, it must be made out and attached at the time of the execution and should be referred to by inserting after the amount in the confession something to the following effect: "The particulars of the claim or demand for which this confession is given is signed by me and hereto attached."

2nd. The application for judgment in every such confession must be made to the judge at a sitting of the court within three calendar months after the same is so taken, or at the sitting next after the expiration of the period named. If not so made the plaintiff or his agent must file with the confession an affidavit that the sum confessed or some and what part thereof remains justly due, otherwise the judge will not grant the application for judgment.

If the defendant be in at all embarrassed circumstances the prudent course for a plaintiff is to apply for judgment with as little delay as possible. The clerk will not of course issue execution upon the judgment entered unless directed by the plaintiff.

3rd. It is important to remember that the application is restricted to a particular court division, namely, that in which the confession was given. The words of the rule are as follows: "And applications for judgment shall be made at a court holden for the division wherein the confession or acknowledgment was taken."