

RECENT DECISIONS.

tiff required such an exercise of skill and ingenuity as to constitute the subject of a valid patent. The Court, however, was satisfied, on the evidence, that any person of ordinary skill and knowledge of the subject, placing the two previous inventions side by side, could effect the combination of the two in a manner similar to the plaintiff's invention without making any further experiments or obtaining any further information. The Court, therefore, held that the plaintiff's invention was not of sufficient novelty to constitute the subject of a valid patent. The case of *Poyser v. Minors*, p. 329, contains some interesting law as to non-suits, and it was held that the rule committee of County Court Judges had power, to make the rule that a non-suit shall be equivalent to a judgment for the defendant, as "regulating the practice of the Courts and forms of proceedings therein," such being the terms of their statutory power. Bramwell, L. J., however, dissented from Baggallay and Lush, L. J. J Some notice of this case will be found among our recent English practice cases.

The case of the *New Zealand and Australian Land Co. v. Watson*, p. 374, is on the subject of principal and agent, and concerning as it does, the business of exporting wheat for sale in England, appears worthy of special notice. The plaintiffs, who were landowners in New Zealand, used to consign their wheat to M. & T., merchants, amongst other places, at Glasgow, with instructions to sell the wheat

in London. M. & T., as plaintiffs were aware, used to employ the defendants, who were corn-factors and brokers in London, for the purpose of selling there the wheat, but the plaintiffs were in no way parties to the particular contracts of sale, nor were their names disclosed upon them. M. & T. failed, and when they stopped payment were indebted to the defendants on other accounts, but not on the Glasgow account. The plaintiffs brought an action for the net balance of the proceeds of the cargoes of wheat in the hands of the defendants, after deducting the remittances made to M. & T. in respect thereof. The jury found at the trial that the plaintiffs did not, through their agents, employ the defendants to sell and account for the proceeds of the wheat; secondly, that the defendants knew, or had reason to believe, that M. & T. were acting in the sales as agents for a third person. The Court of Appeal, however, held (reversing the judgment of Field, J.) that the plaintiffs were not entitled to recover, as there was no privity of contract between them and the defendants, and the defendants did not stand in any fiduciary character towards the plaintiffs so as to entitle the latter to follow the proceeds of their property in the defendants' hands, and as whatever right the plaintiffs might have had as owners to claim the wheat before it had been sold, they had no right, after such sale, to the proceeds, without giving credit for the sum due to the defendants from M. & T. on their *general* account.