

## MONTHLY REPERTORY.

C. P. CONNELLY V. BREMNER. June 4.

*Practice*—Time to plead—Signing judgment on Saturday—Reg. Gen. 1856.

By Reg. Gen. 1856, "it is ordered that the service of pleadings, &c., shall, on Saturday, be made before two o'clock, p.m. If made after two o'clock, p.m. on Saturday, the service shall be deemed as made on the following Monday." The defendant's time for pleading expired on Saturday, and the plaintiff signed judgment at 4.45 p.m. on that day, no plea having then been delivered. *Held*, that notwithstanding the above rule, the defendant had all Saturday to plead, and that the judgment should be set aside. 14 W. R. 781.

H. of L. June 5.

THE MERSEY DOCKS AND HARBOUR BOARD V. PENHALLOW AND OTHERS.

THE MERSEY DOCKS AND HARBOUR BOARD V. GIBBS AND OTHERS.

*Negligence*—Public body constituted by Act of Parliament receiving no profit from their office—Liability for default of servant.

The Mersey Docks and Harbour Board were constituted by Act of Parliament a corporation for the purpose of managing, repairing, and maintaining the Liverpool Docks, and were empowered to levy certain tolls on all ships using the docks, which tolls were to be used exclusively for certain public purposes specified in their Act of Incorporation. The members of the Board, either in their individual nor corporate capacities, received any profits, directly or indirectly, from the tolls so levied. At the entrance to one of the docks a bank of mud had accumulated, which rendered it dangerous for the purposes of navigation (the lock being nevertheless kept open for the public), and this was known to the servants of the Board, and the Board itself either knew, or was negligently ignorant of the fact.

A ship, in entering the dock, struck against the bank of mud and was injured.

*Held* (affirming the judgment of the Court of Exchequer Chamber), that the Board were liable to make good the loss sustained by the owner of the ship and the owner of the cargo. 14 W. R. 572.

C. P. WALESBY V. GOULDSTONE. June 9.

*Cause*—Balance of claim after set-off—County court—15 § 16 Vict. c. 54—19 § 20 Vict. c. 108, s. 24.

To an action in a superior court, brought to recover more than £50, the defendant pleaded, and proved before an arbitrator, a set-off, which reduced the amount recovered to less than £20. The set-off was not admitted on the writ nor in the particulars.

*Held*, that the plaintiff was entitled to his costs, as the set-off was not an admitted set-off within the 19 & 20 Vict. c. 108, s. 24, and a plaint could not have been entered in the county court. 14 W. R. 899.

EX. BICKFORD V. D'ARCY AND BRAGHEY. June 12.

*Interrogatories*—*Bona fides*—Tendency to criminate.

Interrogatories, if put *bona fide* to make out the case of the plaintiff, will not necessarily be disallowed because the answers may tend to criminate the defendant.

*Baker v. Lane*, 13 W. R. 293, explained. 14 W. R. 900.

Q. B. REG. V. STEPHENS. June 14.

*Nuisance*—Indictment—Liability of master for unauthorised act of servant.

Although a proceeding by indictment for a nuisance is criminal in form, the same evidence that would support a civil action for an injury arising from the nuisance will support the indictment. 14 W. R. 859.

S. C. U. S.

IN RE FENNERSTEIN'S CHAMPAGNE.

*Evidence*—*Res inter alios acta*.

Letters written by third persons in due course of business are admissible to prove facts relating to that business which the writers might have proved if summoned as witnesses. 14 W. R. 890; Am. Law Reg.

## CHANCERY.

L. J. May 25, 28; June 1, 12.

RE TEMPEST.

*Trustee*—Appointment—Discretion of Court—Principles upon which the Court acts in the appointment of new trustees.

Although the Court, in appointing new trustees, exercises its discretion, that is not a mere arbitrary discretion, but one in the exercise of which the Court is guided by general rules and principles.

The following rules were laid down:—

(1) The Court will regard the wishes of the author of the trust, if expressed or clearly to be collected from the instrument creating the trust.

(2) The Court will not appoint a trustee with a view to the interests of some of the *cestesque trustent* in opposition to the wishes of the author of the trust, or to the interests of others of the *cestesque trustent*. 14 W. R. 850.

L. J. EX PARTE ENSBY. RE ENSBY. June 11.

*Bankruptcy Act 1861, s. 86*—Debtor's own petition for adjudication of bankruptcy—No assets.

The mere fact that a debtor has no assets is, in the absence of fraud, no reason against his obtaining an order of discharge upon his own petition. 14 W. R. 849.

V. C. W. SURE V. WALMSLEY. June 19.

*Practice*—Examination *ex parte* previous to the hearing—Examiner's objections to questions.

Although, by the order of the Court on evidence, dated February 5, 1861, the examination,