thereout their poundage and fees. The court, on the application of the defendants, decided that under the circumstances these two Sheriffs had no legal claim to poundage, at all events against the defendants. But as the court considered that the conduct of the plaintiff's attorney had been oppressive and unreasonable in issuing three writs, when the money could have been made under any one of them, he was ordered to refund to the defendants the sums retained by the two Sheriffs, out of the moneys they had to return to the defendants.

In *Brown* v. *Johnson*, the plaintiff sued out a writ of *fi. fa.*, which on the 10th of June, 1858, he placed in the hands of the Sheriff of York and Peel. Sufficient goods were seized under this writ to satisfy the debt. In August following, a *fi. fa.* was issued on the same judgment to the Sheriff of Wellington, and upon this writ also, goods sufficient to satisfy it were taken in execution. In October, the plaintiff and defendant came to an arrangement, and the Sheriffs were ordered to withdraw. They did so, but exacted their poundage and fees. A summons was taken out by the defendant, calling upon the Sheriff of Wellington to refund the poundage exacted by him. It was contended that, under 9 Vic. cap. 56, sec. 2, neither Sheriff was entitled to poundage, because no money was actually levied. Burns, J., said, "The section is obscurely worded, and it seems difficult to construe it properly. I can scarcely imagine the legislature intended, when two Sheriffs were set in motion, that they should each be in a worse position than if only one writ of *fi fa.* was issued." The learned judge further thought that there was such a priority in point of time, that if either Sheriff was entitled to poundage it would in this case be the Sheriff of York and Peel. He was not called upon to give any opinion as to whether this Sheriff was so entitled, and simply decided the question, as to whether the Sheriff of Wellington was entitled to poundage, in the negative."

Poundage is recoverable from a defendant on a writ of extent (*Reg.* v. *Patton*, 6 U.C.Q.B. 307), Robinson, C. J., in his judgment, saying, "I do not see any reason why 33 H. VIII. cap. 39, sec. 54, should not be held in force here, and by that in all suits on obligations and specialties to the king costs shall be recovered by the king from defendant, as in ordinary cases between party and party."

NEW COUNTY JUDGE.

We observe that William George Draper, Esq., has been appointed County Judge of the united counties of Frontenac, Lennox and Addington. Mr. Draper is favourably known to the profession as the editor of The Rules of Court bearing his name, and more recently as the author of an admirable little Handy-book on the Law of Dower. He cannot, now that he has received a judicial appointment, have a better examplar than that of his father, the present Chief Justice of Upper Canada, whose legal attainments are the admiration of the Province.

SELECTIONS.

LEGAL PROCEDURE.*

Legal Procedure has at first sight little attraction for any but lawyers; but, correctly viewed, it ought, I think, to interest not only the legal profession, but all other persons who, by education and reflection, are concerned in, and capable of appreciating the right administration of the law, and I have chosen it as my subject, feeling convinced that as a social question bearing on the economy of the law, it is, when rightly considered, not only of the greatest practical importance, but has at the present time special claims to attention. I here particularly refer to two important public documents—the Lord Advocate's Bill for consolidating and amending the Procedure of the Court of Session, and the Report of the Royal Commissioners appointed to inquire into the practice of the Courts of Law and Equity in England and Ireland, and which was laid before Parliament towards the end of last Session. The fact that the different systems of procedure in the Courts of Justice in the United Kingdom are at present under the anxious consideration of the Crown and Government, may of itself be allowed to be a sufficient reason for taking cognizance of so grave a matter on this occasion.

But even if not suggested as it is at this time by the action of the great public and constitutional authorities referred to, the subject is intrinsically of too much importance to require any apology for its public—even its popular—discussion. For, if this is a matter which not so much concerns the principle or policy of the law, it is one which relates to that which is of not less consequence to a free country, namely, to that system of actual procedure and practice by which the business of the Courts is regulated and controlled; by which the law is practically brought home to the people in regard to their rights, liberties, and duties; by which their rights are vindicated, their wrongs redressed, their persons and property protected, and their conduct socially and individually determined. Such being the real character and object of legal procedure, its importance cannot be over-estimated. It is indeed that which gives real value to the laws, and no system of jurisprudence, however excellent, philosophic or true, can secure any practical advantage to those who owe it allegiance, unless it be assisted and applied by accurate forms of administration. It otherwise becomes a dead letter.

Of the two, indeed, I would rather have a bad system of laws well and justly administered, than the finest jurisprudence erroneously or even inefficiently practised. There was a time when the lawyers of England claimed the benefit of that sentiment, when taking a comparative view of the English and Scotch systems, admitting, as they at the same time did, that the jurisprudence of Scotland was more excellent than their own. "The law of England," they said, "is a bad system, but it is well and justly administered, the Scotch law is an admirable system, but it is badly administered." And in this saying there can be no doubt there was much truth. And there are other European countries where we might easily find illustrations of the vital character of procedure, and be made

* A paper read at Edinburgh, before the National Association for the Promotion of Social Science, by Robert Stuart, Esq., Barrister-at-Law.