The Legal News.

Vol. II. OCTOBER 25, 1879. No. 43.

INTERVENTIONS IN BANKRUPTCY PROCEEDINGS.

A small question of procedure was raised in the case of *Merino* v. *Ouimet*, with reference to interventions in bankruptcy proceedings. A writ of attachment had issued against the estate of Ouimet at the instance of Merino. The intervenants wished to have this proceeding set aside, but they came into Court, simply alleging themselves to be creditors, and concluded forthwith for the quashing of the attachment, without asking permission to intervene, or to be recognized as intervenants in the cause. The practice in bankruptcy proceedings, it is possible, has not been so strict or well defined as in ordinary cases, but when the irregularity was formally objected to by a *réponse en droit*, the Court at once insisted on compliance with the procedure enjoined by the Code (Art. 154 *et seq.*).

ARCHITECTS' FEES.

In the case of *Footner & Joseph*, nearly twenty years ago, the Court of Queen's Bench held that an architect suing for a commission, though no express agreement be proved, may establish the value of his services and recover as for a *quantum meruit*. The Court may adopt a commission as a convenient mode of remuneration, but not because an architect is by law entitled to a commission on the outlay. The case was very clearly put by the late Mr. Justice Aylwin: "It would be dangerous," he said, "to "suppose that architects could establish their "own tariff of prices within their own guild, "and thus tax their own bills. That could "not be sustained, and if the Court now adopted "the standard of 2½ per cent., it was not "because there was no proper evidence to "show what was the value of the plaintiff's "services. It was, therefore, necessary to take "the evidence given, which seemed to establish "2½ per cent. as a fair remuneration. But he "did not subscribe to the doctrine, that because "a building costs £20,000, the architect was "to have a certain percentage on that sum, on "account, perhaps, of the introduction of a "number of foreign novelties and luxuries, "which in no way increased his responsibility "or labor. His business was to see that the "house was properly constructed, and the mere "expenditure could form no basis of the value "of his services. He agreed with the judgment "because it did not adopt that basis." 5 L. C. J. 226. The case of *Roy* v. *Huot et al.*, before Mr. Justice Torrance, noted in this issue, is very much like that of *Footner & Joseph*, and was decided in accordance with the principle there laid down.

VACATING OF SHERIFF'S SALES.

An instance of misdescription, sufficient under 714 C. P., to vacate a sheriff's sale, is afforded by the case of *Comp. de Prêt et Crédit Foncier & Baker*, noted in the present number. The lot instead of being forty-five feet front, as described, was only thirty feet front, that is to say it contained only two-thirds of the alleged contents. The *adjudicataire* availed himself of Art. 714, C. P., which says that if the immoveable differs so much from the description given of it in the minutes of seizure that it is to be presumed that the purchaser would not have bought had he been aware of the difference, the sale may be vacated at the suit of the purchaser. The difference, here, was so great, that it seemed to leave little room for argument; but the plaintiff, who contested the petition of the *adjudicataire*, argued that the latter, having been the immediate vendor of the person on whom the land had been sold, must have been aware of the mistake. If he had been trying to obtain any advantage by vacating the sale, this objection would perhaps have been more formidable. But the *adjudicataire* was simply asking to get back what he had already paid. A new plan of the property, in fact, had been made since the first sale, and the evidence seemed to show that the *adjudicataire's* agent had been misled. The present case was easily distinguished from the cases of *Melançon & Hamilton*, 16 L. C. J. 57, and *Douglas & Douglas*, 3 Q. L. R. 197, which were cited by the appellants, for in both those cases the *adjudicataire* did not seek to vacate the sale, but to be repaid a portion of the price as the value of the deficiency.