

REPORTS.

(Reported for the LAW JOURNAL.)

RATHBURN V. BURGESS.

Mechanic's lien—Demurrer—Pleading.

A bill to establish a mechanic's lien should allege that there was no agreement that the plaintiff was not to have a lien for the price of the work or materials in respect of which the lien is claimed.

Quære, whether a suit to establish a mechanic's lien for an amount within the jurisdiction of a County or Division Court must be brought in such County or Division Court, and not in the Court of Chancery.

Proudfoot, V. C.]

[Jan. 19.]

A bill was filed to establish a lien for \$71, the price for materials furnished for and used in the construction of a house on lands of defendant. The bill did not allege that there was no express agreement to exclude the lien. The defendant demurred for want of equity.

Langton, for the demurrer. The lien exists if at all by virtue of sec. 3 of Rev. Stat., c. 120, and unless the bill negatives the existence of an agreement excluding the lien, a case is not made out within the Act.

Sec. 13 of the Act shews that it is only in cases other than those within the jurisdiction of a County or Division Court that the lien is to be realized in the Court of Chancery.

Henderson, (Belleville) contra. If there is any agreement that is a matter to be raised by answer.

The inherent jurisdiction of the Court of Chancery is not taken away by the clauses of the Act which confer jurisdiction in certain cases upon County and Division Courts. The language of sec. 12 is permissive only.

PROUDFOOT, V. C., without expressing any opinion as to the question of jurisdiction, held that as the right to a lien was a new one existing only under the Act, a case should be brought strictly within the terms of sec. 3, and the bill should therefore allege that there was no agreement that the plaintiff was not to have a lien for the price of the materials furnished. He allowed the demurrer with costs, giving the plaintiff liberty to amend generally.

Demurrer allowed.

LAW STUDENTS' DEPARTMENT.

LEGAL EDUCATION.

The ideal lawyer is an embodiment of all the virtues and attainments of Coke, Bacon, and Erskine. He should combine the mastery of the technicalities of law with that universal knowledge which Bacon took for his province, and with the ability to enforce his own propositions and remove the prepossessions of others.

It is no royal road that leads to the attainment of an ideal so high and so difficult, and therefore no means should be neglected whereby its difficulties may be lessened, and the path of the travellers to "Fame's proud temple" rendered more easy. Amongst these means education professedly stands pre-eminent, and the enquiry is therefore a pertinent one why in a province like Ontario where its claims are so universally acknowledged in other departments of knowledge, there is no regular system of legal instruction.

There are two plausible reasons which may be urged against the introduction of such a system—one is that there is no necessity for it, and the other—probably the only other—is that there are no funds available for its foundation and support. Is either of these objections applicable? Does any one question the difficulties to be encountered by all law students in the acquisition of the learning necessary to the practice of the profession? Has it ever been suggested that of all courses of study, that of law stands out as so pre-eminently easy that no such assistance in it is requisite? Or does any one assert that lectures or oral instruction are of little value if given by competent teachers? It has indeed sometimes been argued that lectures are principally valuable where experiments are necessary; but it is not doubted that apart from such cases, lectures, if given by well-read men with a dash of enthusiasm in their composition, render most valuable assistance to the student. This principle has been recognized and acted upon in almost all countries where law has reached an advanced stage of development. There is no need, however, for going from home for recognition of the principle. It is recognized in all departments of study except law, and it has several times asserted itself and found acceptance. Perhaps the most crucial