continued in cap. 65, C. S. L. C., sec. 6, and incorporated in C. C., art. 1899. In all this casting and re-casting of the statute law there is not a word to show that the privilege of the creditor of the private estate of a partner over the assets of the private estate is limited to a portion of the debt. The section of the Act in the Consolidated Statutes is in these words: "The net proceeds of the separate estate of each partner shall be apportioned in the first instance to pay the creditors of his separate estate," and it is only the balance which goes to swell the proceeds of the partnership estate, if necessary for the payment of creditors."

Again, even if the section were borrowed from an English Statute, I think it would be overstating the rule to say that we must take its English jurisprudence with it. English jurisprudence on a statute exactly corresponding to ours, is certainly some authority, but I don't think it would be declaratory of the intention of the legislature. The authorities cited in Clarke, (p. 10) only go the length of saying, that a re-enactment of the same words is supposed to imply that the legislature is satisfied with the interpretation; but really this goes little further than to say that the re-enactmen of the same words does not destroy the jurisprudence on the former statute or specially authorize a new departure. I can hardly fancy, at all events under our views of jurisprudence, that it will be maintained that the re-enactment of a statute in the same words would fasten an evidently erroneous interpretation of words on the world, adopted by one or two judgments, which do not indicate a general acquiescence in a doctrine. Lastly, if a *dictum* of the sort were binding, I don't know where it is to be found with regard to this clause. The appellant, when stating the point in immediate connection with his authorities, involuntarily recedes from the position that could alone save his position. He states the doctrine correctly when he says, that interest is not allowed "where creditor is competing with creditor." But this is obviously not applicable when the competition is between privileged and non-privileged creditor. This is fully explained in 1 Bedarride, p. 128, the authority cited by appellant. This writer says that interest "*courant en faveur de tous*' is not reckoned because it would be uselessly to swell the amounts and keep the accounts open. But he expressly says it does not apply to privileged and hypothecary claims. Renouard and Pardessus are not less explicit. Here the creditors are not even competing. It is the mass of the partnership estate which claims the balance after paying the creditors of the private estate in full. We are all to reject the appeal.

There are two other cases involving precisely the same question, in which the judgments appealed from are confirmed and the appeals dismissed with costs.

In the case of the Consolidated Bank & Moat there is a cross appeal. The Court below held that the cross-appellant, though entitled to interest, had charged compound interest, and a portion of his claim ($1,416.66) was disallowed. At the argument it was stated that the payments had been charged first to the reduction of interest, and that this was the legal mode of imputation. Of course, it was not denied, that if the fact was as stated the appellant must succeed. We have looked into the matter and find that the cross-appellant is correct, and therefore the judgment of the Court below must be so far reformed, and the cross appellant must have the costs of his cross appeal.

Robertson, Ritchie & Fleet, for Consolidated Bank.

Laflamme, Q.C., counsel.

Abbott, Tait & Abbotts, for Moat.

COURT OF QUEEN'S BENCH.

MONTREAL, Oct. 31, 1883.

DORION, C.J., MONK, J., RAMSAY, J., BABY, J.

HOWLEY v. THE STANDARD INSURANCE COMPANY.

Procedure—Bailiff's return—Exception to the form.

The truth of the bailiff's return of service of summons may be contested by exception à la forme, the conclusions of which pray for permission to contest.

The bailiff who served the writ and declaration in this cause certified that the service had been made by speaking to, and leaving a true and certified copy thereof, for said Company, "defendants, with a grown and reasonable "person in care at their principal place of busi- "ness in Montreal."

The defendants filed an *exception à la forme*, alleging in substance that their head office was