where he went once a week, and where a person by the name of Berry, who had lately been his articled clerk, but who had not been admitted an attorney, superintended his business and practised in his name. The defendant resided at Huddersfield, fourteen miles from Wakefield, and applied to Berry there, in the first instance, to commence an action against one Naylor. The suit was carried on by Berry. Between him and the plaintiff there was a private understanding that for all business done by the former at Wakefield, he was to receive one-third of the profits, and the plaintiff the remaining two-thirds. It was not shown that the defendant had ever seen or communicated with the plaintiff as to the conducting of the cause. It appeared also, we may add, that Berry was indebted to the defendant for spirituous liquors, furnished to him by the latter, before the bill of costs was delivered. The plaintiff brought an action against defendant for the amount of his bill of costs.

The learned judge at the trial, upon this state of facts, was of opinion that the plaintiff was not entitled to recover, on the ground that no proof had been given that he had been retained by the defendant; that before a client can be called on to pay an attorney's bill of charges for business done by him, in the character of an attorney, he should have had the benefit of his experience and judgment as the principal; that the plaintiff by allowing his clerk to transact his business at Wakefield and giving him one third of the profits, constituted a partnership; that if so, the action should have been brought in their joint names; and that as such partnership would have been illegal in itself, they could not have been enabled to recover, and so the plaintiff was nonsuited.

The judges, *in banc*, refused to set aside the nonsuit, and gave utterance to expressions of disapprobation much stronger than any we have used.

It only remains for us to add that the Benchers of the Law Society of Upper Canada have determined to discountenance every such transaction, and will not allow the time served by an articled clerk at a distance from his master's chief place of business. This determination will, at least, have the effect of deterring young men, anxious to become admitted at an early date, from becoming parties to bargains which every professional man of a correct mode of thinking must condemn in his conscience.

We are also informed that the Law Society have discovered a practice equally liable to censure, and that is, the practice of articled clerks, in the last year of their service, coming to Toronto, bringing with them the agency business of country principals, and pocketing the agency fees, or some portion thereof, as their own. This is a practice which, if discovered in the case of any particular student, will subject him not only to censure, but probably to pains of a more severe description.

It is our duty to the profession, as well as to the public, to make these remarks; and we hope that they will not be without some effect upon those to whom they are especially addressed.

SUMMARY CONVICTIONS, AND APPEALS THEREFROM.

BY A BARRISTER.

A conviction may be defined to be "A record of the summary proceedings upon any penal statute, before one or more justices of the peace, or other persons duly authorized, in a case where the offender has been convicted and sentenced."

Being a record therefore of a proceeding taken under the authority of a statute, and in restraint of the common law, which requires that a man shall be tried by his equals, nothing will be presumed in favor of a conviction, but the intendment will be against it.—*Burn* 586.

Every thing therefore necessary to show the juri-diction of the magistrate, the commission of an offence, the hearing and adjudication, must be stated fully and with certainty.

In 1 Lord Raym. 510, Lord Holt said, "Convictions ought to be certain, and not taken upon collection;" and in *Rex* v. *Harris*, 7 T. R. 238, Lord Kenyon said, "A conviction is in the nature of a verdict and judgment, and therefore must be precise and certain."

Except in cases where a form of conviction was given by a particular statute, it was necessary at common law to set forth in a conviction—

1st. An information or charge against the defendant, shewing by whom the complaint was made, the nature of the offence, and the time when and place where it was committed.

2nd. The jurisdiction of the magistrate.

3rd. A summons to the defendant, in order that he might have an opportunity to make his defence.

4th. His appearance or non-appearance.

5th. His confession or defence.

6th The evidence against him, in case he did not confess.

7th. The judgment or adjudication.

8th. That it be under the hand and seal of the convicting magistrate.

The difficulty of drawing up convictions in due form no doubt induced the Legislature, in the act relating to summary convictions, to give general forms, in which many things necessary to have been stated in a conviction at common law have been omitted.