

MONTHLY REPERTORY—TO CORRESPONDENTS.

MONTHLY REPERTORY.

COMMON LAW.

C. P. **PYPER v. MCKAY.**
Accommodation note—Negotiation after payment—Pleading.

Declaration, on a promissory note made by defendant payable to the order of S. T. & Co. and indorsed by them to plaintiff. Pleas, (4th) that the note was made by defendant for the accommodation of the payees to raise money thereon, and indorse the same to their own use before it should become due and payable, and not otherwise; and that there never was any value or consideration for such making, or for the payment by defendant of the note, except as aforesaid; that the payees indorsed and negotiated it with the Commercial Bank for their own use according to said terms; that it was afterwards protested, and S. T. & Co., on behalf of defendant, subsequently paid it to said bank, and it was then returned by S. T. & Co. by the bank for and on account of defendant; that S. T. & Co. afterwards and in fraud of defendant first indorsed it to plaintiff. The 5th plea was similar to the 4th, only that it concluded thus, "and S. T. & Co., without defendant's authority, first indorsed the note to plaintiff after the payment and discharge." Held, on demurrer, pleas good. (16 U. C. C. P. 67.)

L. C. **MORTIMER v. BELL.** Nov. 16.
Vendor and purchaser—Specific performance—Sale by auction—Puffing.

At a sale of real estate by auction the vendors are not authorised in employing two persons to bid against each other, although there is a reserved price; and such persons do not, in fact, bid beyond that price. *Semble*, the right to fix a reserved price ought to be stipulated for and expressly notified. (Per Lord Chancellor.)—The rule, said to exist in equity, allowing one puffler to be employed, without notice, to prevent a sale at an under value, is abstractedly less sound than the rule at law, which declares such employment to be fraudulent, and rests only on the authority of decisions in lower branches of the court. (14 W. R. 68.)

CHANCERY.

Chan. **MCDONALD v. BOICE.**
Fraudulent judgment.

A judgment, recovered at law, by the fraudulent acquiescence of the defendant in the action, will be inquired into in this court at the instance of a subsequent judgment creditor; although the rule at law is that only the party to the action can move against the judgment there. (12 U. C. Chan. R. 48.)

Chan. **LUNDY v. MCKAMIS.**
Mortgage on wrong lot.

Where a mortgage was, through error, created upon a wrong lot of land, the mortgagor owning only the land intended to be embraced in it, and

having no title to that actually conveyed, and he subsequently sold the land to which he had title, the court, upon a bill filed for that purpose; ordered him to account for the proceeds of the sale, not exceeding the amount secured by the mortgage, with interest and costs of suit. (11 U. C. Chan. R. 578.)

Chan: **PARKE v. RILEY.**
Sale under fi. fa. against lands previously contracted to be sold.

Where a debtor had entered into a binding contract for the sale of his land, before execution against his land had issued, *Held*, that his interest as vendor was not saleable under the execution. (12 U. C. Chan. R. 69.)

New Orders have just been promulgated by the Court of Chancery—which came into operation on the 1st day of the present month. They were not received in time for publication in this number; will appear in our next.

APPOINTMENTS TO OFFICE.

NOTARY PUBLIC.

CORNELIUS HARPER, of Durham, Esquire, to be a Public Notary in Upper Canada. (Gazetted Dec. 9. 1865.)

TO CORRESPONDENTS.

"BARRISTER"—"JUS"—"A. G. McL."—under "General Correspondence."

(*Examination Papers, as perused and settled by John Punch, Gent., one, &c.*)

COMMON LAW.

1.—Divide the foreigners of distinction now in London into—

Common Counts, Work and labour Counts,
 Money Counts, Superfluous Counts.

2.—"Britannia rules the waves." Will she "rule them to bring in the body?" What sort of a rule does she employ for the purpose? Is it an eight-day rule, a side bar-rule, a foot rule, or a rule nisi? Which of these was the rule in Shelley's case? Was Shelley unruly, or did he submit to be ruled? What was the rule in the "Six Carpenters' Case?" Was this a carpenter's rule or a sliding scale?

3.—To bring into England any bull from Rome was formerly a *præmunire*. How is this affected by the new tariff? How of bull terriers? What is the law of England as to Irish bulls? Why are "old terriers" allowed in courts of justice? Do they "run with the Case." How would you "serve" a bull in a china shop? Supposing him to do damage taerein to the amount of 20s. would he carry costs into the "*locus in quo*?" Would it be pound-breach?"