

DIGEST OF ENGLISH LAW REPORTS.

CONTRIBUTORY.—See COMPANY, 2.
 CONVEYANCE.—See RESERVATION.
 COPYFOLD.—See COMMON, 2.
 CORPORATION.—See COMPANY, 5.
 COUNSEL.—See MORTGAGE, 4; TRUST, 2.
 COVENANT.—See SURETY, 1.
 CUMULATIVE LEGACY.—See BEQUEST, 9.
 DAMAGES.

1. By statute, a company must keep water pipes charged with water at a certain pressure and allow persons to use the same for extinguishing fires; failing in such duty the company to be liable to a penalty, and a forfeiture of 40s. per day to every rate-payer. *Held*, that a person whose premises were burned by reason of neglect of the company to provide water, might sue for damages for the same under the act, although a penalty and forfeiture were provided in such cases; and that the damage was not too remote.—*Atkinson v. Newcastle & Gateshead Waterworks Co.*, L. R. 6 Ex. 404.

2. By statute, the Admiralty court has jurisdiction over any claim for damage done by any ship. *Held*, that a claim for personal injury resulting from the death of the master of a vessel, caused by collision of said vessel with another, was not "damage" within the statute.—*Smith v. Brown*, L. R. 6 Q. B. 729.

See COLLISION; PLEADING.

DEBENTURE.—See TRUST, 1.

DEDICATION.—See WAY, 2.

DEED.—See MORTGAGE, 3.

DEFAMATION.—See LIBEL.

DEMURRER.—See BEQUEST, 1; EQUITY PLEADING AND PRACTICE; LIBEL; NEGLIGENCE.

CORRESPONDENCE.

Attorney and Client—Privileged communications.

TO THE EDITORS OF THE CANADA LAW JOURNAL.

GENTLEMEN,—I have carefully read over your observations respecting privileged communications between attorney and client in criminal matters, and you will excuse me for saying that I am not satisfied with them, and that they do not appear to bear upon this question at all. So far as such communications apply to matters of a civil nature, I agree with you that they are privileged. But the question is very different when it has reference to transactions affecting the public, and which public policy requires should not be concealed. In other words, such transactions are not privileged. The privilege which you appear to contend for, on behalf of

attorney and client, does not extend to the members of any other calling or profession, and why, as a matter of abstract right, should it be granted exclusively to the members of the legal profession? The same arguments which you make use of in favour of the latter, might be used with greater force in reference to ministers of religion, because in the latter case a criminal might claim the right of unburdening his guilty conscience to his spiritual guide with a view of spiritual advice and reformation, while, in so far as members of the legal profession are concerned, such communications are solely made for the purpose of legal defence against a public demand for conviction and punishment. I do not think that the exercise of the privilege which you contend for, would be in any way advantageous, morally speaking, to the members of the legal profession, or that they should exclusively claim the privilege. Members of the legal profession are also members of society, and, as members of society, they cannot, by simply assuming their particular calling, divest themselves of their obligations to the public and claim thereby privileges which, upon considerations of public duty they ought not to possess.

In Taylor on Evidence, 3rd ed., p. 752. "If from independent evidence it should clearly appear that the communication was made by the client for a criminal purpose, as for instance, if the attorney was questioned as to the most skilful mode of effecting a fraud, or committing any other indictable offence, it is submitted that, on the broad principles of penal justice, the attorney would be bound to disclose such guilty project. Nay, it may reasonably be doubted whether the existence of an illegal purpose will not also prevent the privilege from attaching, for it is as little the duty of a solicitor to advise his client to evade the law as it is to contrive a positive fraud." And in Note 2, same page, reference is made to several cases bearing upon the subject. Also, same note, "*In Annesley v. Earl of Anglesea*, 17 How. St. Tr. 1229, Serjt. Tindall," in argument, lays down the rule thus: "If the witness is employed as an attorney in any unlawful or wicked act, his duty to the public obliges him to disclose it. No private obligations can dispense with the universal one, which lies on every member of society, to discover every