

Chan. Div.]

TRUST AND LOAN CO. V. MCCARTHY—COMMONWEALTH V. PHIPPS.

[U. S. Rep.]

as has been supposed. It is just that persons should be obliged to show some respect for those who differ from them. You will see these publications; and if you think they are permissible attacks on the Christian belief, you will find the defendants not guilty; but if you think that they do not come within the largest and most liberal view of the law as it exists, then, whatever may be the consequences, and however little you may like them, it is your duty to find them guilty. It is your duty to administer the law as you find it, and not to strain it on one side or the other—certainly not to strain it in the defendants' favour, however you may think that they ought not to be prosecuted, still less to strain it against them because you may not agree with the sentiments they avow. Take the publications in your own hands, and say whether the defendants are guilty. As to the cartoons, the excuse is that they are not attacks upon, or caricatures of Almighty God. Mr. Foote declares that if there be such a Being, He is the proper object of reverence and awe; but that these are only his mode of holding up to contempt and ridicule what he considers the caricature of God exhibited in the Hebrew Scriptures. You will look at them, and judge for yourselves whether or not they come within the law, and whether or not the defendants are guilty of publishing blasphemous libels."

In the result the jury were unable to agree, and were discharged.—*Law Journal*.

## REPORTS

### ONTARIO.

(Reported for the LAW JOURNAL.)

#### CHANCERY DIVISION.

TRUST AND LOAN COMPANY V. MCCARTHY.

*Mortgage suit—Dispute note—Judgment on *præcipe*.*

Where a statement of defence is filed in a mortgage action for foreclosure or sale, which amounts simply in substance to a notice disputing the amount of the plaintiffs' claim, judgment may be entered on *præcipe*.

[April 30.—PROUDFOOT, J.]

A. H. Marsh, for plaintiff, moved for a direction to the Registrar to enter judgment on

*præcipe*. The action was brought by the plaintiffs for foreclosure, and the plaintiffs prayed also for an order for delivery of possession. The defendant had filed a statement of defence in which he alleged (1) that the plaintiffs were in possession; (2) that they had or might have received rents which they had not credited; and (3) asking for an account.

He stated that the Registrar of the Chancery Division had expressed a doubt whether judgment under the circumstances could be signed under either Rule 78 or 520, as he thought from the judicial construction which had been placed on the Rules, that the former Rule was limited to cases of non-appearance, and the latter to cases where no defence is put in. It was submitted that under the former Chancery practice, a decree on *præcipe* might have been granted on such an answer being put in.

PROUDFOOT, J., after taking time to consider the matter, held that the statement of defence amounted to a mere dispute note, and that the former practice was impliedly kept in force by Rule 3, which provides that Orders 638 to 650 shall apply to all the Divisions of the High Court. Order 646 expressly refers to Orders 434 and 435, under which, according to the former practice, a decree on *præcipe* could have been obtained in a similar case to the present. As regarded the claim for possession, he thought the judgment should contain an order for the delivery of possession by the defendant to the plaintiffs, but that the Registrar might properly insert in the judgment a clause declaring the judgment to be without prejudice to any question that might be raised by the defendant on the taking of the accounts as to the liability of the plaintiffs to account as mortgagees in possession.

### UNITED STATES.

COURT OF QUARTER SESSIONS OF PHILADELPHIA COUNTY.

COMMONWEALTH V. PHIPPS.

*Forgery—Fraud.*

1. An indictment charging the fraudulent making and signing of a receipt for a warrant, which was in words and figures as follows:—"Guardians of the Poor, 3. 27, 1882, \$389, No. 969, item, Walter S.