

Semble, that the letter taken by itself was not "false colour and pretence of process" within the section.

Held, (per BRAMWELL, B.) that the section was directed against forgeries of the process of the court and pretences made whilst acting under genuine process, and that the facts above did not constitute an offence.

EX. PIGEON v. LEGGE. May 25.

Trespass—Master and servant—Responsibility of master for act of servant in excess of demand.

A person who requests another, his servant in that behalf, to remove one making a disturbance in his house, is not responsible for excess of force or violence in carrying out his command.

Semble, that he may be answerable for a negligent performance of his order.

Q.B. SUMMERS v. SOLOMON. June 5.

Principal and Agent—Authority to purchase goods on credit—Locality.

The defendant's shopman had on various occasions ordered goods on credit for the shop, and then orders had been satisfied by the defendant; but on every occasion the goods had been ordered by the shopman at the shop, and had also been delivered there.

Held, that this afforded evidence of authority in the shopman to purchase goods on credit from the shopman at another place and to carry them away himself.

Q.B. RE AN ATTORNEY. May 23.

Practice—Service of rate—Enlargement of.

Application was granted on motion for the enlargement of a rule in this case in order to effect service, and also for leave to make such service on the London agent of an attorney and on his last place of abode, it being sworn on affidavit that the attorney had gone out of the way to avoid service.

EX. EX PARTE WILLIAM BAKER. June 1, 2.

Master and servant—Absenting from service—Second conviction—Punishment—Power to inquire by affidavits into jurisdiction of justice—Statutes 6 Geo. 3, cap. 25, sec. 4; 4 Geo. 4, cap. 34, sec. 3.

B., a working potter, was convicted before a magistrate of having unlawfully absented himself from his master's service, and was sentenced to be imprisoned for one month. *Held*, (per POLLOCK, C.B., MARTIN, B., and BRAMWELL, B.) that the conviction was bad for not awarding as to the abatement of B.'s wages during his imprisonment, as required by 4 Geo. 4, cap. 34, sec. 3, which authorizes a justice of the peace in such a case "to commit every such person to the house of correction, there to remain and be held to hard labour for a reasonable time, not exceeding three months, and to abate a proportional part of his or her wages for and during such period as he or she shall be so confined."

Per WATSON, B., *dissentiente*, that the 6 Geo. 3, cap. 26, sec. 4, empowering the magistrate to sentence to imprisonment *simpliciter*, was not repealed by 4 Geo. 4, and that the conviction was good under the earlier statute.

A warrant of commitment recited that complaint upon oath had been made that W. B. did agree to serve as a potter under a written agreement for a certain time, and having entered upon and worked under such agreement, and the term of his agreement being unexpired, he did unlawfully misdeemean himself in his service by absenting himself from his service, &c.; the magistrate did adjudge the said complaint to be true,

it appearing to him, as well upon the examination on oath of J. S. in the presence of the said W. B. as otherwise, that the said W. B. having contracted to serve as a potter, and the term of his contract being unexpired, did, on, &c., misdeemean and misconduct himself in his said service by neglecting and absenting himself, &c. *Held*, first, that the facts of the contract being made, the service entered upon, and W. B. having absented himself, were sufficiently stated. Secondly, that the warrant was not open to the objection that evidence not on oath or not in the presence of the prisoner had been received, as it must be presumed that the words "as otherwise" referred to other legal evidence:

A servant or artificer, within 4 Geo. 4, cap. 34, sec. 3, who absents himself a second time from his service under the same contract, may be punished by virtue of that statute for such second absenting, notwithstanding he was committed to prison for the prior absenting; and a neglect and refusal to return to his work after the expiration of the period of imprisonment, if the time during which he contracted to serve has not then expired, is a fresh absenting. *Dissentiente*, POLLOCK, C.B. And per POLLOCK, C.B., and MARTIN, B., that if such servant or artificer absent himself under a claim of right to treat the contract as at an end, and with an avowed determination of never again to return to his service, and is punished by imprisonment for such absenting, the contract can no longer be treated as subsisting so as to subject the workman to punishment for neglecting to return to his employment at the expiration of his sentence.

The Court may, on an application for a *habeas corpus*, inquire by affidavit into facts which were necessary to give the magistrate jurisdiction. *Dissentiente*, BRAMWELL, B.; *dubitante*, MARTIN, B.

Q.B. WOODLAND v. FEAR. Jan. 26, April 27.

Money had and received—Cheque of one branch of a banking company cashed at another branch, upon credit of presenter and not of the customer.

H., having an account at the G. branch of a banking company, drew a cheque upon such branch, which he paid to F., who presented it at another branch of the same company where F. was known, and the cheque was paid to F., but on being sent directly to the G. branch payment was refused, H. having then no effects in the bank, though he had when the cheque was paid. It was proved that the business of each branch was kept quite distinct.

Held, that the cheque was drawn upon the branch at G., and that the payment of the other branch was upon the credit of F., and therefore they were entitled to recover back the amount of the cheque.

EX. HIGGINS v. BURTON. May 26.

Goods—Title to goods—Liability of auctioneer who sells goods obtained by a false pretence.

Goods obtained by means of a false pretence that D. was agent of F. were delivered to an auctioneer for sale by D., and were sold by the auctioneer, and the proceeds of the sale handed over to D.:

Held, that trover was maintainable against the auctioneer at the suit of the true owner.

C.P. PATTEN v. REA. May 25.

Negligence—Master and servant—Collision.

If a servant be possessed of a horse and gig of his own, and while using them on his master's business, with his master's acquiescence, cause a collision and damage by his negligent driving, the master is liable for the damage.