thereof, must be taken by demurrer, or motion to quash the indictment before the defendant has pleaded, *and not afterwards;* and every Court, before which any such objection is taken, may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the Court, or other person, and thereupon the trial shall proceed as if no such defect had appeared, *and no motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act.*" And by section 80, it is enacted that no writ of error shall be allowed in any criminal case, unless it be founded on some question of law which could not have been reserved, or which the Judge presiding at the trial refused to reserve for the consideration of the Court having jurisdiction in such cases. Now the defective statement of the previous convictions for misdemeanor was not a matter which could have avoided the whole indictment; but if it could have had that effect the point could have been raised by demurrer. Upon the objection being made to the defective statement of these convictions, what was done was equivalent to erasing them from the indictment, and the conviction stands upon the counts whereof the prisoner was convicted, unaffected in any manner by the defective statements; and if it were for no other reason than that they were so in effect removed from the indictment, the prisoner could not insist that they are still upon the indictment for the purpose of error.

As to the objection which was moved in arrest of judgment, that was also a point which could have been, and therefore should have been, raised by demurrer, if there was thought to be any thing in it, and not having been so raised, cannot now be entertained. The intention of the Legislature was, we have no doubt, to prevent, after a trial upon the merits and a verdict of guilty, the cause of justice being delayed by such objections as have been raised in this case. But we are also of opinion that there is nothing in the point raised, even if it had been raised by demurrer instead of by motion in arrest of judgment, and that what is good as against a demurrer cannot be bad in arrest of judgment, or on error, if error lay, and we are of opinion it does not lie in this case. Judgment, therefore, will be for the Crown.

GALT, J., concurred.

Judgment for the Crown

COMMON LAW CHAMBERS.

Reported by HENRY O'BRIEN, ESQ., *Barrister-at-Law.*

LAWRIE ET AL. v. MCMAHON.

Insolvent Act, 1869, sec. 134.—Appeal.—Death of Insolvent.

When the insolvent who has appealed from the decision of a County Judge refusing to set aside an attachment against him, dies during the pendency of this appeal, and no personal representative has been appointed, the appeal fails.

[Chambers, February 28, 1872. *Galt, J.*]

This was an appeal from the judgment of the County Judge of the County of Lincoln refusing a petition of the defendant to set aside an attachment issued against him as an insolvent.

Since the decision of the learned Judge of the County Court was given, McMahon, the insolvent, died intestate, and no letters of administration had been granted to any person.

Harrison, Q C., contended that under sec. 134 of the Insolvent Act of 1869, this appeal could be prosecuted notwithstanding the death of the petitioner, and though no person had been authorised to administer to his estate.

T. Moss appeared for the creditors, and urged that under the circumstances no further steps could be taken in the matter.

GALT, J.—It is unnecessary to consider the grounds of appeal against the judgment if there is no person authorized to bring them forward. The 134th section, as it appears to me, expressly requires that any persons who wish, on behalf of the insolvent, to interfere in the proceedings in insolvency on behalf of the estate of the debtor must be clothed with authority to act as his legal representative, and as there is no person at present in that position I have no jurisdiction to entertain the matter.

UNITED STATES REPORTS.

SUPREME COURT OF ILLINOIS.

ILL CENTRAL R. R. CO v. JESSE L. ABELL.

If a railway passenger holding a ticket entitling him to alight at a particular station, is carried past such station without his consent and without being allowed a reasonable opportunity of leaving the train, he has an action against the company for whatever damages.

Verdict obtained by dividing by twelve.—That while jurors may resort to a process of this sort as a mere experiment, and for the purpose of ascertaining how nearly the result may suit the views of the different jurors, yet a preliminary agreement that each juror should privately write upon a slip of paper the amount of damages to which he thought the plaintiff entitled, and place the slip in a hat, that the amounts should be added together and their sum divided by twelve should be the verdict, will vitiate a verdict found under such an agreement.

[C. L. N., June 26, 1872.]

Opinion of the Court by Lawrence, C. J.

If a railway passenger holding a ticket entitling him to alight at a particular station, is carried past such station without his consent, and without being allowed a reasonable opportunity of leaving the train, he has an action against the company for whatever damages may have accrued to him for non-delivery at the place of his destination,

It is urged that the verdict is not sustained by the evidence, but we refrain from the consideration of that point as there is another upon which the case must be sent to another jury. It appears by the affidavit of the officer having in charge the jury, that, after agreeing to find for the plaintiff, they differed widely as to the damages, and it was then agreed that each juror should privately write upon a slip of paper the amount of damages to which he thought the plaintiff entitled, and place the slip in a hat; that the amounts should then be added together and their sum, divided by twelve, should be the verdict. This was done and a verdict rendered accordingly.

It is true a juror swears that there was considerable consultation after this was done, and that each juror agreed upon the result thus reached as his verdict. He does not however