

or Common Pleas, or any decree, order, or rule of a County Court," ordering the payment of any money. The question, then, resolves itself into this: does "any order of the Court of Queen's Bench, or Common Pleas, or of a County Court," in this section, mean a Judge's Order, or not? If it does, then there is no necessity to make a Judge's Order a rule of court, in order to issue execution upon it; although that, I believe, is the universal practice in Upper Canada. The wording of the section leaves room for a great deal of doubt. Will you kindly give your opinion on this point in your next issue, as it is a matter of some interest in practice?

Yours, truly,

Kingston, May 13, 1864.

A STUDENT.

[The wording of the section to which our correspondent refers, is calculated to cause doubt. We are not, at present, aware of any decision under it, which reaches the point raised. The language of the section is not nearly so free from doubt as that of section 18 of English Stat. 1 & 2 Vic., cap. 110, from which it is supposed to be taken. It is not the practice to issue writs of execution upon Judge's Orders, unless such orders be first made rules of court (See *Greene et al v. Wood*, 3 U. C. L. J. 163). Without an express decision, authorizing a contrary practice, we do not think it would be safe to depart from that which hitherto has been universal.—Eds. L. J.]

MONTHLY REPERTORY.

COMMON LAW.

P. C. FALELAND ISLANDS COMPANY V. THE QUEEN.

Jurisdiction—Colonial courts—Appeal in criminal cases.

The Crown, by virtue of its prerogative, has authority to review all the decisions of all the Colonial Courts, whether the proceedings be of a civil or of a criminal character, unless that authority has been parted with. But it is only in very peculiar circumstances, such as where the rights of the Crown are concerned, and involving questions of great general importance, and where the proceedings are substantially more of a civil than of a criminal character, that appeals can be allowed in criminal proceedings.

EX. C. ORCHARDS V. ROBERTS.

Notice of action—Direction to jury in action for false imprisonment.

In an action for false imprisonment, the defendant pleaded guilty by statute. *Held*.—Where the objection is whether a defendant is entitled to notice of action, as having done anything under an act of Parliament, the proper direction for the jury is to ask them whether the defendant really believed that the facts existed, which, if they had existed, would bring the case within the statute and be a justification.

C. P. TIDEY V. MOLLETT.

Contract—Condition precedent—Agreement for a lease.

A. agreed to make certain alterations in a house, and "to complete the whole work necessary by the 14th of June;" B. "in consideration of these conditions being fulfilled" agreed to take the house on the 24th of June for three years, with the option of a lease for seven, fourteen, or twenty-one years.

Held, that the completion of the whole work by the 14th of June was a condition precedent to B's liability to take the house on the 24th.

EX. C. THE SOUTHAMPTON DOCK COMPANY V. HILL.

Dock charges—Southampton Dock Act, 6 Will. IV. c. xxix., s. 149—Ad valorem charge.

The Southampton Dock Company cannot enforce an *ad valorem* charge not sanctioned by the provisions of the Dock Act, 6 Will. 4, c. xxix., s. 149, notwithstanding that such charge to be only reasonable for the services rendered.

CHANCERY.

M. R. BROWN V. KENNEDY.

Deed of gift—Undue influence—Counsel and client—Consultation—Rectification.

A deed of conveyance of a reversion by a client to her counsel, which was expressed to be made in consideration of his services, rendered in her cause and of her esteem and regard for him, set aside on the ground of undue influence.

The court will not rectify a voluntary deed, so as to carry out the alleged intention of the parties, unless the parties consent; if any object, the deed must wholly stand or wholly fall.

V. C. K. HAND V. NORTH.

Will—Construction—"Become of the age of twenty-one"—Period of birth and vesting.

A testator by his will gives a share of his property to one of his children, contingent upon her surviving him, and by a codicil implying, though not actually stating, that she was dead, he gives the share which she would have been entitled to, to her two children, "upon their becoming of age." Both survive the testator, and die, one under age.

Held, that the gift to them was a tenancy in common, and that the share of the grandchild, dying under twenty-one, descended as to the realty to the testator's heir, and as to the personality to the next of kin.

V. C. S. BELL V. BELL.

Practice—Order to revive—15 & 16 Vict., c. 86, s. 62.

Order to revive a creditor's suit made after decree, but before the chief clerk's certificate, upon the application of a person claiming to be a creditor.

V. C. W. BOYES V. BEDALE.

Conflict of laws—Legitimacy—French law—Domicil.

The will of an English testator must be construed according to the meaning of the terms used by the law of England; and, therefore, a child born in France and illegitimate at birth, but legitimated pursuant to French law upon the subsequent marriage of its parents, A. B. (both domiciled in France), is not entitled to a bequest of personal estate to the child of A., contained in the will of an English testator.

L. C.

Re THE SOUTHAMPTON, ISLE OF WIGHT, AND PORTSMOUTH IMPROVED STEAM-BOAT COMPANY (LIMITED). HOPKIN'S CASE.

Bankruptcy—Joint-stock company—Death of Shareholder before winding-up order—Contributory

A commissioner having, in an order settling the list of contributories of a joint-stock company which was being wound up in bankruptcy, placed the name of H. on the list, afterwards reheard the case, and, on its being brought to his notice that H. died before the winding-up order, rescinded his former order, and removed the name of H. from the list.

Held, That the commissioner had power to rescind his former order, and was justified in so doing.