

STRIKING OFF THE ROLL.—NOTES OF RECENT DECISIONS.

has been one of the considerations influencing the appointment, and his wrongful retention of moneys as such trustee renders him amenable to the penalty in question: *Re Chandler*, 22 Beav. 253.

In like manner, to make a transition to the second part of our subject, if a solicitor wilfully advises a breach of trust, he is liable to be struck off the roll for his misconduct. In such a case, to give the Court jurisdiction, there must be on the part of the solicitor either a design to benefit himself, or assistance rendered to his client in a scheme which he knows to be dishonest and fraudulent: *Barnes v. Abdy*, L. R., 9 Ch., 251.

It has been held in the Privy Council that a deliberate mis-statement of facts upon the face of a deed is highly censurable, but the solicitor guilty of such a misstatement is not liable to be struck off the roll on that account, unless he has acted with fraudulent intent, and this intent is brought home to him: *Re Stewart*, L. R., 2 P. C., App. 88.

Where a solicitor advises a client who is a trustee, to commit a breach of trust by selling out stock, and the solicitor himself profits by such a breach of trust, he is liable to be dealt with summarily by the Court, as in *Goodwin v. Gosnell*, 2 Coll., 457. So when he had fraudulently abused the confidence of his client, even though there had been considerable delay and offers to compromise, and the solicitor had been arrested under a *ne execat*, and had been in prison for ten months, an order was made to strike his name off the roll: *Re Martin*, 6 Beav. 337. Nearly all the cases on this branch of the law are collected and very fully discussed in *Re Attorney*, 39 U.C.R., 171.

In all such applications, the Court keeps in view and acts on the principle that the exercise of this summary juris-

diction against its own officers is for the benefit of the public and to secure the community from being preyed upon by dishonest and unprincipled persons. To borrow the pointed language of Knight-Bruce, V.C., in one of the cases cited, "it is not the least urgent of the duties of those in whose hands is placed the administration of justice, to mark, to censure, to repress, and if necessary to extirpate from the Courts, such men, as by abusing the functions and privileges of so important a profession, become a scandal and a pestilence to society."

NOTES OF RECENT DECISIONS.

BROWN V. G. W. R. COMPANY.

[Communicated.]

This case* presents some interesting points; and its effect is of importance not only to the profession but also to the public. A Grand Trunk Railway train, of which the plaintiff was conductor, was crossing on the level the defendants' railway. The engineer of the defendants, when a short distance from the crossing, endeavoured to stop his train by means of air-brakes, which failed. It being too late to use the hand-brakes, the result was a collision and the injury complained of by the plaintiff.

The plaintiff declared upon the negligence and unskilfulness of the defendants. It was held, Moss, J. dissenting, that the 19th Vict. cap. 92, s. 10, imposed an absolute duty on the defendants to stop for three minutes before such a crossing, and judgment was therefore given for the plaintiff. The first question that presents itself is that upon which the above-named learned judge based his dissenting judgment, namely, the consideration of whether the defend-

* 40 U. C. R., 333; 2 app.