

The Report of the same Committee, received on the 7th of December, on the subject of charges against another member of the Society, was considered, and ordered to be adopted.

The Report of the Committee on Reporting was laid before Convocation, read and considered, and ordered to be adopted.

Moved and seconded: That the Report of the Committee on Legal Education, on the petition of Mr. P. H. Drayton, be adopted.

The Report of the Finance Committee on the several petitions of James Elliott, M. A. Dixon, John C. Fraser, James Glass, H. C. McKeown, C. P. Simpson, and Thomas Macnaughton, was received, read, and adopted.

The Report of the Library Committee, recommending the refusal of the petition of various barristers and students asking that the library be opened from 7 P.M. till 10 P.M., was considered and adopted.

Ordered, That the Secretary be instructed to prepare forthwith an Index of the Minutes and Proceedings of Convocation subsequent to Michaelmas Term, 38 Victoria, and that hereafter the minutes be indexed forthwith after the end of each Term, and that the Secretary be authorized to employ such assistance as may be required for that purpose.

CANADA REPORTS.

ONTARIO.

COMMON LAW CHAMBERS.

[Reported for the *Law Journal*, by N. D. Beck, Student at-Law.]

MCMASTER V. KING.

Notice of trial—Demurrer—Re-hearing.

Held, that a notice of trial, given pending a re-hearing

on the decision of a single judge upon demurrer, is irregular, and will be set aside.

[January 9.—Mr. DALTON.]

This action was brought to recover the price of goods sold to defendant. The declaration charged the defendant with fraud in obtaining the goods, with the view of having him imprisoned under sec. 136 of the Insolvent Act of 1875. The plaintiff obtained an order for leave to join issue and to demur to one of defendant's pleas; the order did not direct the issues in fact to be tried first. The demurrer was argued before a single judge, who held the plea bad; whereupon the defendant had the demurrer re-heard before the full Court in term, when judgment was reserved. While the case was standing for judgment before the full Court, the plaintiff gave notice of trial, whereupon a summons was taken out on behalf of defendant to set aside the notice.

Akers moved the summons absolute. Reg. Gen. Mich. Term, 29 Vict., directs that "the issue or issues of law shall be determined before the trial of the issue or issues of fact, unless otherwise expressly ordered by the Court or Judge in the rule or order permitting such issue or issues to be raised." Under this rule the issues in fact must be finally determined. [Mr. DALTON.—If this be the meaning of the rule, the defendant might prevent the plaintiff from having the issues in fact tried for an almost indefinite length of time by appealing again and again.] The case of re-hearing from a single judge is different from an ordinary appeal, and the Statute seems to look upon it in a different light, from the fact that if the defendant appeals he must give security, which he need not do upon a re-hearing. The case of *Goldie v. Date Patent Steel Company*, 7 Prac. R. 1, is a direct decision in defendant's favour. If the plaintiff be allowed to go to trial, and if he prove fraud as charged in the declaration, the Judge is bound, under the Insolvent Act, to order the defendant to be imprisoned, notwithstanding that he may not be liable even for the debt.

W. McDonald shewed cause. The demurrer has been determined within the meaning of the rule mentioned; if not, the result will be, that the defendant may keep the plaintiff from having the issues in fact tried for an indefinite time. The case of *Goldie v. Date*, is not applicable to the present case. There is a case of *Caldwell v. Macfarlane*, which appears in the *Legal News*, vol. 1, page 4 (Quebec), which shows that it is discretionary