

RECENT ENGLISH PRACTICE CASES.—REVIEWS.

276, note 2. . . . Quite a different practice prevailed in equity. The court required a plaintiff, who relied on an agreement which came within the statute, to allege writing satisfying the statute. The principle is expressed by V. C. Kindersley in *Barkworth v. Young*, (ubi sup.). From the difference in the requirements as to allegation between law and chancery there followed a difference as to the power of the statute by demurrer. As the plaintiff was required to state writing in chancery, if he did not do so his bill was demurrable. As he was not so required to state by declaration at law, the absence of the statement could not be taken advantage of by demurrer. Thus matters stood before the Jud. Act. Imp. O. 19, r. 23 provides:—[His Lordship read the rule.] That rule, I think, implies that the allegation of a contract simply throws on the defendant the burden of alleging the Statute of Frauds. The result of that rule is twofold. It abolished the old rule in chancery that writing must be alleged, and it abolished the old rule of law, according to which the point might be raised at the trial, even if no notice had been given of the intention to do so. Therefore it leaves it open to allege a mere contract, and requires the defendant, if he intends to raise the point, to do so by his pleadings."

Demurrer over-ruled with costs.

[NOTE:—*Imp. O. 19, r. 23., and Ont. O. 15, r. 17, are identical.*]

WE regret to record the death of Mr. W. M. Ross, Clerk of the Process, on the 28th ult. Mr. Alex. Macdonell has been appointed temporarily to the position. It has been said that the Government propose abolishing the office. There certainly seems no necessity for it.

REVIEWS.

A MANUAL OF PRACTICE OF THE HIGH COURT OF JUSTICE FOR ONTARIO, under the Judicature Act, 1881, with the additional rules of the Supreme Court of Judicature for Ontario, passed since the 21st of August, 1881, and the Rules of the High Court of Justice; by George Smith Holmsted, Registrar of the Chancery Division. Toronto: Rowse and Hutchison, 1881.

We are happy to say that the anticipations expressed in the last issue of this journal, with regard to the above work, have been abundantly fulfilled by a perusal of it. The author concisely and modestly states the object of his Manual in his preface in the following words: "To those who have neither the time, nor inclination, to make an analytical study of the Act and Rules, with a view to informing themselves of their precise bearing upon the different stages of an action, it is thought the following pages (in spite of whatever defects may be found therein), may be some service, as the author has endeavoured to focus the several portions of the Act and Rules applicable to each particular step of the proceedings, and thereby save the practitioner the labour of an independent search, at each time he wishes to take a step in a cause."

The fact is, however, the Manual supplies a clearly needed help to the mastery of the new procedure, which no mere study of the Acts and Rules would render unnecessary, and which could not be afforded by the excellent works of Mr. MacLennan and Messrs. Taylor & Ewart. These latter are, in fact, manifestly framed upon a different plan, and intended to supply other requirements. To write a Manual which can be, without effort, read through consecutively so as to give a general bird's-eye view of the whole field of the practice of the High Court, is no light undertaking, and we can honestly say Mr. Holmsted has succeeded in it; at the same time his book is sufficiently full in its matter, and in its citations of Rules and cases, to make it of great use for reference on any particular point that may arise in practice.

This book has more similarity to Indermaur's Manual of Practice than to any work we know of, and this, indeed, seems to some extent to have suggested its arrangement. It first deals with