EQUITABLE EXECUTION.

IN the recent cases of *Fuggle* v. *Bland*, 11 Q.B.D. 711, and *Westhead* v. *Riley*, 49 L.T., N.S. 776, the English Courts appear to be finding a way of giving relief to creditors in cases in which according to the cases of *Horsley* v. *Cox*, 4 L.R. Chy. 92 (followed in this Province in *Gilbert* v. *Jarvis*, 16 Gr. 265, *St. Michael's College* v. *Merrick*, 1 App. R. 520; and *Fisken* v. *Brooke*, 4 App. R. 8), a creditor has hitherto appeared to be without remedy.

In *Fuggle* v. *Bland*, judgment had been recovered against a husband and wife; the latter was entitled to a reversionary interest under her father's will, and the plaintiff applied for the appointment of a receiver of this interest and the Court (LOPES and POLLOCK, JJ.) appointed the plaintiff himself receiver, without requiring security. In *Westhead* v. *Riley*, the defendant, against whom judgment had been recovered, was a solicitor, and, as such, was entitled to recover certain costs out of a fund standing in the Palatine Court of Lancaster, under an order made in that Court in an administration action, in which the defendant had acted as solicitor. After the costs had been taxed, the plaintiff, Westhead, obtained *ex parte* an injunction restraining the defendant from receiving the costs, and he subsequently moved on notice to the defendant for the appointment of a receiver of the costs, which was granted by CHITTY, J., on the authority of *Fuggle* v. *Bland*.

In *Gilbert* v. *Jarvis*, the plaintiff was a judgment creditor of the defendant, who, he alleged, was entitled to a large sum from the estate of her deceased husband as executrix and devisee, and the plaintiff claimed to have her husband's estate administered, so far as necessary for the purpose of having the amount of the indebtedness to the defendant ascertained, and made available for the payment of his claim.

This relief the Court of Appeal held (following *Horsley* v. *Cox*) could not be given; but it appears difficult to distinguish the facts of that case from those of *Fuggle* v. *Bland*, and according to the latter case under such circumstances as existed in *Gilbert* v. *Jarvis*, the Court would now appoint a receiver. The claims in respect of which the receiver was appointed, in both *Fuggle* v. *Bland* and *Westhead* v. *Riley*, were not claims which could be attached under the garnishee clauses of the Common Law Procedure Act, see *Webb* v. *Stenton*, 11 Q.B.D. 518; *Vyse* v. *Vyse*, 76 L.T. 315; *Dolphin* v. *Layton*, 4 C.P.D. 130; *Stevens* v. *Philips*, 10 L.R. Chy. 417. The non-attachability of a claim would therefore seem to be no longer a bar to its being reached by way of equitable execution.

REPORTS.

ONTARIO.

(Reported for the CANADA LAW JOURNAL.)

PRACTICE.

SHEPPARD V. KENNEDY.

Lis pendens—Vacating same—Endorsement on writ.

A *lis pendens* should not be vacated unless it appears from the endorsement on the writ or the pleadings that the claim upon the land is not an appropriate remedy. There should be clear and almost demonstrative proof that the writ is an abuse of the process of the Court.

Jamieson v. *Lang*, 7 P. R. 404, approved of.

When a plaintiff seeks to register a *lis pendens* he should be more precise in respect to the endorsement on his writ than in ordinary cases, and should define generally the grounds of his claiming an interest in the lands.

[March 5.—Boyd, C.

This was an application to vacate a *lis pendens* under the following circumstances:

On Feb. 9th, 1884, the plaintiff issued a writ in the Chancery Division against M. Kennedy and T. J. Stewart, and endorsed it as follows: "The plaintiff's claim is to have a deed made between the defendant, M. Kennedy, and the defendant, T. J. Stewart, set aside and cancelled, of lots 4