do not need them, and in fact they are merely indulged in for popularity, and "to split the ears of groundlings."

It is said that an experienced advocate once advised a professional brother, whenever he had a bad case for a defendant, to abuse the plaintiff's attorney. This suggestion seems now to be extended a degree further, and the next best thing to such a course appears to be to abuse the opposite counsel. We trust this practice may soon fall into disuse, as, in our judgment, it is one "more honoured in the breach than the observance."—*Irish Law Times*

The case of *Perry* v. *Taylor* has attracted general attention, both from the public and the legal profession. The defendant, the Rev. Dr. Taylor, is a minister of the Canada Presbyterian Church, who had married the son of the plaintiff, a lad of 16, to a widow, aged 49 The parties presented themselves before Dr. Taylor with a license, and the boy being asked his age by the clergyman, declared himself to be 22 years of age. This marriage was annulled by the Superior Court in a previous suit brought by the plaintiff for that purpose, the ground of nullity being the want of consent on the part of the parents of the minor. The action, *Perry* v. *Taylor*, was instituted for the recovery of damages for the illegal marriage. Mr. Justice Monk, on the 9th of July, after reviewing the facts appearing in evidence, expressed the opinion that the reverend gentleman should have done more than merely ask the age of the minor, the disparity of age and other circumstances being such as to awaken suspicion. He considered that a want of proper care had been manifested by the defendant, and on this ground he condemned the defendant to pay $100 damages, and the costs of the action as brought.

This decision seems to have been pretty generally approved by the public, as far as we have observed. It is certainly desirable that clergymen should not be in any uncertainty as to their responsibility in respect to the parties whom they marry.—*L. C. Law Journal.*

ONTARIO REPORTS.

PRACTICE COURT.

(Reported by Henry O'Brien, Esq., *Barrister-at-law, Reporter to the Court.)*

Leslie v. Foley.

Insufficient affidavit—Toronto agent of attorney.

In an application of strict right the court will not conjecture circumstances in favor of the applicant, who should support his case by the best and fullest evidence, and not, as in this case, with defective materials.

In such an application it will not be assumed by the court that the affidavit made by "the agent" of a person is the professional Toronto agent of such person, and that such person is a practising attorney.

[P. C. Easter Term, 1868.]

J. A. Boyd obtained a rule calling on the plaintiff to shew cause why a rule absolute, granted herein in the previous Term should not be set aside with costs for irregularity, on the ground, that the rule absolute was granted in pursuance of a rule *nisi* to pay over the amount of an award, which rule *nisi* should have been and was not personally served, and the materials on which the rule absolute was made were insufficient, and because the same was moved absolute prematurely, and before it was returnable.

The application was founded on an affidavit of Mr. Boyd, shewing that a rule *nisi* was obtained in this cause last Hilary Term calling upon the defendant, upon notice of the rule to be given to him, his attorney or agent, to shew cause why he should not pay to the plaintiff an amount awarded against the defendant and the costs taxed: that the rule issued on the 11th February, and was served on that day on the agents of the defendant's attorney, and that it was made absolute on Friday, the 14th, and issued on the 29th February, and that no further proceedings appeared to be had on it up to the time of this application. It was contended on the part of the defendant, that notwithstanding the object of the rule was to obtain an execution against defendant's goods under the statute, that the service should have been made personally, as in the case of seeking an attachment, and that the rule *nisi* could not have been moved absolute until after the 14th February.

C. S. Patterson showed cause, and, amongst other things, objected that the materials upon which this motion was made were insufficient, and that the only affidavit filed, and upon which the application rested, not shewing that the person who assumed to act as the professional agent of the attorney of the defendant, who was also a practising attorney, was such an agent.

J. A. Boyd supported his rule.

Morrison, J.—It is unnecessary for me to give judgment on the principal points raised, as I am of opinion that I ought to give effect to the objection that the materials before the court are insufficient to entitle the defendant to make this rule absolute. This application is one of strict technical right, and the defendant must make out a clear case. The only affidavit filed is Mr. Boyd's, which states that Messrs. Read and himself are agents in Toronto of the defendant, but in what respect or for what purpose does not appear. I cannot necessarily assume that the defendant is an attorney or barrister, for nothing in the affidavit or papers filed shew that he is, and if I ought to do so, as suggested by Mr. Boyd, in that case I would be more stringent in exacting, on account of his professional knowledge, the strictest regularity in his proceedings. Now all that appears here is, that Mr. Boyd a few days before the 22nd of May last, searched with the clerk of this court as to proceedings in this cause: that he was informed that a rule *nisi* (the one in question), issued on the 11th February, and was made absolute on the February 14: that an affidavit of service of a copy of the rule *nisi* was attached to it, shewing that it was served on the 11th on the agents of the defendant's attorney, and that the rule absolute was taken out on the 29th February: and Mr. Boyd states