The Legal News.

Vol. III. APRIL 3, 1880. No. 14.

APPEAL TO PRIVY COUNCIL.

The case of *Brewster & Lamb*, noted at p. 75, and also in the present issue, p. 109, has brought up a rather interesting point of practice. It has been the custom to ask the Court of Appeal for leave to appeal to the Privy Council, when it is desired to take a case before that tribunal. The Court then gives an order, granting leave to appeal, and fixing a certain delay to put in security. As judgments are often rendered in appeal on the last day of the term, and there may be only a few minutes at the conclusion for receiving motions, it is sometimes inconvenient for counsel to be present at the right moment, and yet if the motion is not made then, execution may be issued long before the first day of the succeeding term. In the case of *Brewster & Lamb* the counsel charged with the case for appellant was accidentally absent, and although his client, who was only partially successful, was desirous of taking the case to England, leave was not obtained in the usual way. Before the expiration of fifteen days from the date of judgment, however, Brewster offered security before the Chief Justice in Chambers (p. 75). The security was accepted purely and simply, and Brewster relied upon this as equivalent to the giving of security within a delay fixed by the Court.

It is to be remarked that the right of appeal does not depend on the giving of security, but on the amount of the suit, and here there was no question as to the right of appeal. But the judgment appealed from is not suspended unless the appellant gives security "within the delay fixed by the Court." (Art. 1179.) In this case it was urged that there being no delay fixed by the Court, the respondent had a right to execute the judgment, and therefore had a right to have the record transmitted to the Court below. The Judges were of opinion, however, that by putting in security within the fifteen days allowed for execution, the appellant had effectively taken his appeal, and stood in just as favorable a position as if the ordinary course had been followed. It is evident that this ruling has no tendency to protract proceedings. On the contrary, those who take advantage of it will have to give security within fifteen days, whereas they would have six weeks under the ordinary practice.

JUDICIAL BUSINESS IN ENGLAND.

A correspondent of the *Manchester Guardian* writes in very strong terms of what he witnessed at the recent Assizes in that city, at which eighty-eight causes were entered for trial. "For my own part," he says, "after an experience of nearly 25 years, I may say I never saw or heard of such a burlesque of trying causes, in one of the Courts at all events. Counsel, solicitors, suitors, and witnesses bustled into Court to have their causes tried, and were as quickly hustled out again, disappointed, indignant, and venting their feelings in strong language at some compromise or other they had been—well, induced to enter into, or at the sudden collapse of their cases before one-fourth of their witnesses had been called. However, as I heard Lord Justice Brett say, about 5.30 p.m. last Saturday, when he cheerily announced to jaded counsel and weary jurors his intention of trying five or six more cases that evening, 'if the people of Manchester will enter eighty-eight causes they must take the consequences.'" It may be some consolation to reflect that things are not so bad with us yet. But it is becoming a perplexing question almost everywhere, how the judicial machinery is to be adjusted to cope with the ever increasing volume of business.

TRADE-MARK CASES.

An article copied elsewhere from the London *Law Times* refers to the number of trade-mark cases coming before the English Courts at the present day. The American Courts are equally busy; yet it is to be remarked that this is comparatively a new branch of law, for the cases prior to the nineteenth century are very few in number: Sebastian's Digest, recently published, contains but three. In fact, it is only within forty years that questions arising from infringement of proprietary marks have been much discussed before the Courts. The last ten years, however, have added very largely to the jurisprudence on this head, and the subject promises to give rise to many questions of complication.