

## LAW BILLS OF LAST SESSION—SHERIFFS' POUNDAGE.

proceedings analogous to actions of ejectment, and declaring that the pleadings and practice shall, so far as possible, be regulated by the Common Law Procedure Act.

But by far the most important Bill introduced was the Registry Act which has been so long promised us. Most of our readers are aware of the prominent features of it. We think we are safe in asserting that a Registry law, to be efficient, must be complete, stringent and thorough. Time has shown that half measures will not answer, and the tendency of legislation is towards a more complete system.

Mr. Scatcherd has, of course, introduced his usual advertisement—his clap-trap bill to reduce law costs, to which we allude in another place. We should feel deeply for *him* if such a piece of absurdity ever became law.

None of these bills, however, have as yet passed. In whatever stage they were when Parliament dissolved, so they remain until next session, which may possibly commence some time in July, though probably not till later.

The law bills that go into the Statute Book this Session are but few, and may be enumerated as follows:—

An Act to amend the Consolidated Statutes of Upper Canada respecting the Court of Chancery as to certain matters of jurisdiction, but principally with reference to proceedings in Lunacy cases. Practitioners in the Court of Chancery will be glad to see this Act as soon as possible. We publish it in another place.

An Act to improve the proceedings in Prohibition and on Writs of Mandamus in Upper Canada.

An Act repealing the eighth section of the Interpleader Act, and substituting a new section authorising interpleader proceedings for the proceeds or value of any lands taken and sold under an execution, &c. We publish the Act in another column.

An Act, introduced by Hon. J. H. Cameron, to amend the Act respecting Attorneys. We are enabled, through the kindness of the Treasurer of the Law Society, to give our readers an early copy of this Act. It will, amongst other things, enable the Benchers to use their discretion in certain cases, in which their hands were formerly tied, and many of our friends amongst the students will be glad to see it.

## SHERIFFS' POUNDAGE.

The rights of sheriffs to poundage, in cases where a levy has been made, but no money has been actually realised, or, in other words, where the money has not actually passed through the hands of the sheriff, but the writ has been satisfied in some other way, even though paid under pressure of the writ, has at length been judicially determined. We ventured an opinion in a former volume \* that, under such circumstances we have mentioned, a sheriff would not be entitled to poundage, and our opinion has proved to be correct. Great doubt, however, has existed on the subject in the minds of the profession, and much confusion and annoyance was the consequence. The sheriffs of course contended for what they considered their rights, and debtors on the other hand, under the advice of the plaintiff's or defendant's attorney as the case might be, strongly objected to pay fees which there appeared a good excuse for not paying.

The subject has recently come up for discussion in the Court of Chancery before His Lordship the Chancellor in *Winters v. The Kingston Permanent Building Society*. He decided against the sheriff's claim, as will be seen in the report of the case in another column.

The case of *Buchanan v. Frank* brought the same subject before a Court of Common Law. This case was first fully argued in Chambers, and was subsequently heard in the Court of Common Pleas during last term. The judgment of the Court is decisive on the point that no right to poundage arises unless the money has been actually realised by the sheriff, even though the pressure of the writ may have been the cause of the satisfaction of the debt.

Another case, relating to poundage, came before the Court of Queen's Bench last Term: (*Thomas v. Great Western Railway Company*), which turned upon the point whether or not a sheriff could maintain an action for his poundage against an execution debtor. The court decided in the negative, saying that the sheriff is in fact only the minister of the execution creditor, and therefore an action for poundage if maintainable at all, is only so against the execution creditor.