DIARY FOR MAY.

1. Fri...Vienna Expos. opened, 1873. Local Clks. make ret. to Co. Treas. under 32 V. c. 36, s. 113. Assessors in cit. & towns to complete rolls by this date (do. s. 49). Co. Treas. to make up arrs. on lands.
2. Sat...Cands. for Atty. leave art. with Sec. Law Soc. (25 V. c. 2, s. 5.)
3. SUN..*4th Sunday after Easter.*
5. Tue..Primary Exam. of Students-at-Law and Art. Clerks.
6. Wed..Siege of Quebec raised, 1776.
8. Fri...John Stuart Mill died, 1873.
10. SUN..*Rogation Sunday; 5th Sunday after Easter.* Treaty of Peace between France and Germany, 1871.
11. Mon..Law School Examination.
12. Tue.. Gen. Sess. and Co. Ct. York begin. Inter. Exams. Cand. for call to pay fees and leave papers.
14. Thu..*Ascension Day.* Last day for serv. for Co. Ct. Atty.'s.
15. Fri...Examinations for call to the Bar.
16. Sat...Examinations for call with honours.
17. SUN..*1st Sunday after Ascension.*
18. Mon..Easter Term begins.
20. Wed..Sir George E. Cartier died, 1873.
22. Fri....Paper Day, Q.B. New Trial Day, C.P.
23. Sat...New Trial Day, Q.B. Paper Day, C.P.
24. SUN..*Whit Sunday.* McMahon appointed Pres. French Republic, 1873.
25. Mon..P.D..Q.B. N.T., C.P. Last d. to dec. for Co. Ct.
26. Tue...New Trial Day, Q.B. Paper Day, C.P.
27. Wed..Paper Day, Q.B. New Trial Day, C.P.
28. Thu..Open Day, Q.B. Paper Day, C.P.
29. Fri... Last day for not. of trial in Sup. Ct. case for Co. Ct. New Trial Day, Q.B. Open Day, C.P.
30. Sat...Open Day, Q.B. Open Day, C.P.
31. SUN..*Trinity Sunday.*

CONTENTS.

THE

Canada Law Journal.

Toronto, May, 1874.

We observe that the Great Seal of Ireland is said to be held in reversion for Dr. Ball, the present Attorney-General for Ireland, till the end of the Session. Meanwhile it has been placed in commission in the hands of Sir Joseph Napier, Mr. Justice Lawson, and Master Brooke, one of the Irish Masters in Chancery.

The Legislature of the State of Illinois has recently amended its criminal code, by allowing prisoners to testify on their own behalf. There are conflicting opinions upon the wisdom of this provision. There were such touching the propriety of examining parties to a civil suit as witnesses on their own behalf. Experience will be the best guide in this, as in other matters. We can afford to wait for the present.

We publish in another column the judgment of Mr. Justice Grove in the Taunton Election Case, which has excited so much comment, adverse as well as favourable, in England. It will, no doubt, be eagerly appealed to in many of the election petitions now pending here. It deals with the question of agency, and defines the limits within which the candidate is responsible for the acts of his supporters.

It has been decided in the Liverpool County Court in regard to commercial travellers, or, as they used to be called in England, "bagmen," or as they are now called in the United States, much more graphically, "drummers,"—that the samples and accounts of such persons are not personal or ordinary luggage, so as to make a railway company liable for their

detention: *Bayley* v. *Lancashire Railway*, 18 *Sol. J.* 301.

A very sensible letter from "A Lawyer" is published in one of our English exchanges, upon "the lessons of the Tichborne Trial." He suggests the following important questions which the trial will probably bring on for Parliamentary discussion: (1). The shortening of the period of limitation. (2). The payment of jurors. (3). The pressing of witnesses with questions alleged to go to their credit. (4). Contempt of Court. (5). The shortening of the speeches of counsel, and, (6). The calling of material witnesses, called by neither party, by the Court itself.

Much solemn merriment appears to be occasioned in English legal circles by the fact that Lord Westbury's will is so difficult of construction, that it will consume no small portion of his assets in getting it into a workable shape. Already for the third time the Master of the Rolls has been invoked to construe a passage of this intricate production. He said that never had he seen a document more difficult to construe, and gladly would he have declined the task on the ground that it could not be construed. But upon the decisions of Lord Westbury himself, he was precluded from taking that course..

We publish in another place the report of a case decided in the Province of Quebec, to which we direct the attention of our readers, as to the jurisdiction of the local legislatures to impose fines and imprisonment conjointly for the same offence. The opinion of Mr. Justice Sanborn, in this case, is in conflict with the judgment of Drummond, J., and Torrance, J., in *Ex p. Papin* The report of this last case in Chambers will be found in 8 C. L. J. 122. It is also reported in 16 C. L. Jurist 319. The question on the construction of this sub-section of the British North America Act has not arisen directly in this Province. The matter was referred to incidentally in *Reg.* v. *Boardman*, 30 U. C. Q. B., 555, and, from the language of the Chief Justice, it is to be inferred that he would agree with Mr. Justice Sanborn's reading of the Act. Richards, C. J., there refers to the difficulty of construing the Act in the rigidly technical manner that counsel pressed them to do in the argument.

There are counsel who will never give the Judge on the Bench credit for knowing anything. They go into the discussion of all questions exhaustively. Such an one was the eminent conveyancer, Mr. Preston. When called upon on one occasion to argue some question of real property law before the Common Law Court, he made his exordium by laying down the proposition that "an estate in fee simple was the largest estate known to the English law." "Stop a moment," said Lord Ellenborough, "till I take that down." And so while feigning with well-simulated earnestness to take down the observation of the counsel, the learned Judge was in truth taking down the counsel himself. An occurrence somewhat the converse of this happened while Lord Coleridge was presiding at the last Berkshire assizes. In an action of ejectment, his Lordship asked Mr. Bosanquet, one of the counsel, if he would kindly supply the defects of an Oxford education by informing him what measurement was represented by a perch mentioned in one of the leases produced in the course of the trial. Whereupon, amid some laughter, the learned counsel explained that a perch was not the same in all counties, but usually it was understood to mean sixteen feet.

EDITORIAL ITEMS.

At the York Assizes there are generally two or three slander cases on the docket. That such cases should become common, must cause regret to all right-thinking persons, and it is still more lamentable when the cause of action has arisen from some apparently trifling cause between persons who once loved each other as friends. It has seldom been our duty to notice a more painful case of this nature than that of *Tilly* v. *Brookman*, tried at the late Assizes here. It seems that Tilly and Brookman are neighbours, and once dwelt together in harmony. But on an evil day, Brookman became the owner of a turkey, a wrong-headed bird, which persisted in trespassing wilfully and without lawful excuse, upon the close of Tilly. One day this turkey, grown bold in defiance of the law, proceeded as usual upon his lawless excursion, and—never returned. Thereupon Mr. Brookman, sorrowing for the loss of his turkey, and suspecting foul play, took occasion to accost Mr. Tilly, in the backyard of the latter and in the presence of several ladies and gentlemen, with the pointed inquiry, "Who stole the turkey?" Mr. Brookman, becoming unduly heated, went on to insinuate that if Mr. Whicher, of the Isle of Wight, happened to be on this continent, he could mention facts connecting Mr. Tilly with some purloined candles in an unfavourable light. Clearly Mr. Tilly, not caring to make a breach of the peace, had but one course open to him. With just anger in his heart, and $50 in his hand, he sought legal advice. He was so fortunate as to find a counsel who fully appreciated the outrage, and having laid his wrongs and the said $50 before him, he bade him vindicate his character. Will it be believed that an unsympathizing jury, acting under the direction of a heartless Judge, assessed the damage to Mr. Tilly's character and feelings at *one shilling*, not even enough, as they were touchingly reminded, to get him back his $50 retaining fee! Nay, the same Judge frankly stated that he had not met with a more trivial action within the last thirty years!

Our clever contemporary, the *Albany Law Journal*, to which we are indebted for many entertaining articles, hardly discusses English legal affairs in the spirit of Judicial fairness. The Persian King who wanted to keep up his animosity against an offending nation, had a slave to say to him as he sat down to dinner, every day, "Sire, remember the Athenians." We could almost fancy a devil, or other satellite, performing similar functions for the American Editor, if he needs such assistance, to remind him that as a loyal Yankee he owes a grudge to everything English. We think the spitefulness we allude to is manifest in the comments of that journal on the Tichborne case. For instance, we find it suggested that, in this case, the judgment of the Judges, as well as the people, has, owing to the invincible aristocratic instincts of both, been dangerously biassed against the Claimant. Dr. Kenealy comes in for a share of sympathy, too. "The English press," we are told, "after having seen the degradation and transportation of the Claimant, are now *venting their wrath* upon Dr. Kenealy." "Every man accused of crime or imposition" is in danger of being "deprived of proper legal assistance." "Let us hope that the case of the Claimant is an exception, and not the rule: and that no lawyer need be condemned for *honestly and faithfully* defending one who proves to be guilty of the offence charged." If Dr. Kenealy had confined himself to "honestly and faithfully" defending his client, he would have gained the approbation of more classes than the very lowest classes, with whom the Claimant is a special favourite. As he

chose to abandon the just line of defence, for that of unscrupulous attack upon all who had any, and many who had no connection with the prosecution, his conduct has been animadverted upon, but in no intemperate terms, by the press, to whom the character of the English Bar is very dear. Had any enterprising scoundrel been on his trial in the United States for a fraud of similar magnitude, and been defended in a similarly reckless style, we make no doubt he and his counsel would have held a much more honourable place in public opinion than Orton and Dr. Kenealy do in England.

LEGISLATION OF LAST SESSION.

The Statute-Book of Ontario for 1874 promises to be varied in character and voluminous in contents. It will bulk nearly as large as the volume for the previous year, and in measures of importance the legislation is in many respects deserving of commendation. The consolidation of the School Law is as great a boon to the profession and the public as the consolidation of the Municipal Law, and the Administration of Justice Act of 1873 has its fellow in the Administration of Justice Act of 1874. Most of the Statutes of consequence are already printed in supplements of the *Ontario Gazette*, and we propose in the present paper to call attention to some changes in the law effected by these Acts.

The Act respecting Escheats and Forfeitures does away with the ancient but needless ceremony of an inquisition being formally held in cases where property escheats to the Crown. Objection has been taken to the clause in the Act providing that the Lieutenant-Governor in Council may assign any portion of the escheated personal property to any one having a legal *or moral* claim upon the person to whom the same had belonged. But this is in truth only expressing what was customarily done with the property when the Crown, after escheat, of its own motion disposed of it for the benefit of the relatives or connections of the original owner. If we mistake not there is a provision to the like effect in the Scotch law. The Act may perhaps be more open to question on Constitutional grounds, as between the Province and the Dominion.

The next Act printed in the *Gazette* is that of Mr. Bethune for the apportionment of rent between the landlord and tenant. The principle of the Act is to assimilate all periodical payments in the nature of income, so that, as in the case of interest, they shall be deemed in law to accrue *de die in diem*. It is an extension of the principle of apportionment already recognised in the law of Ontario, to a limited extent, in the case of rent pure and simple, by the adoption of the Statute of 11 Geo. II., c. 19, and is almost a transcript from the Imperial Statute 33 and 34 Vict. c. 35. Upon the construction of the English Act it may be useful to refer to the cases of *Capron* v. *Capron*, 22 W. R., 347; *Jones* v. *Ogle*, L. R., 8 Ch. 192, and *Clive* v. *Clive*, L. R. 7 Ch. 433.

So far as we have been able to examine the Act respecting the incorporation of Joint Stock Companies, it seems to make a very considerable advance in point of comprehensiveness and completeness over any of its numerous predecessors. It is necessary, in view of the vast development of corporate enterprise in the way of mining and manufactures, to have the law more efficient and satisfactory in regard to the formation and winding up of Joint Stock Companies, and the Act in question seems to go a long way in the right direction.

One great evil of local legislation hitherto has been the facilities which it offered and afforded to the passage of private Acts. One considerable check has been

given to much unsatisfactory legislation by the Act of a former session, which required the submission of a certain class of bills for the approval of the judges, and the practice adopted by the Government of opposing all bills upon which the judges have reported unfavorably. We perceive another check to this pocket-legislation in the Act respecting Benevolent, Provident and other societies. It is not our business to deal with politics, nor to discuss the circumstances with regard to the Orange incorporation bills, out of which the comprehensive Statute in question grew; all we have to say is, that the outcome of the contention, as manifested in this Act, will effect good results in lessening private legislation.

It will be a source of great relief to the County Judges, who came to such contradictory conclusions as to the assessment of Bank Stock, to find that the law has now been made plain by the interposition of a parliamentary *Deus ex machina*. The Act to amend the Assessment Law will bring tranquility to many anxious stockholders, but as for ourselves—

> "The empty traveller may whistle,
> Before the robber and his pistol."

We have no space to comment upon the Act which consolidates the Liquor Laws, beyond an expression of satisfaction that the law has been again brought into manageable shape and the confusion of manifold Statutes reduced to order.

The next great Act of the session is that relating to the Administration of Justice, which it would be out of the question to attempt to deal with now at any length. We have, however, noticed most pertinacious objections, made both on the floor of the House, and afterwards by newspaper critics, with regard to the constitution of the Court of Appeal. It is said, for instance, that as the Court consists of four judges, when the Court is equally divided the judgment appealed against will stand. This, it is observed, will lead to curious results, and one is instanced thus:—it sometimes happens that on hearing a question more ably argued, the judge whose decision is questioned sees reason to change his opinion and to reverse his former judgment. In such an event, the writer we have in view says: "when the Court of Appeal is equally divided, the anomalous result will be that two judges will prevail against three." But the difficulty suggested can never occur. It is provided that causes heard before a single judge are to be re-heard before the full bench of three, before the case goes to appeal. When in appeal it will be disposed of by four independent judges, who have not sat on the case before. If there is a dissentient judge in the Court below, with his two brethren against him, and the judges in appeal are equally divided, then the decision below will be affirmed, as it should, because then there would really be the opinion of four judges against three, and the views of the majority should prevail. It is better, in our view, instead of an odd to have an even number of appellate judges, as is the case with the Lords Justices in England. We think, however, that in some other respects the constitution of the court is objectionable, and that a more simple and more effective scheme might have been devised for giving us what the country really wants, namely, a strong and independent Court of Appeal. The judges of this court should only have their appellate work to do, but should have in that respect more thrown upon them than is now done by the present court, and thereby relieve the judges of the three lower courts, whilst still having themselves plenty of time to devote to their important duties as the court of highest resort in this Province.

The Act with respect to compensation to trustees is a consequence and a legislative over-ruling of the decision in *Deedes* v. *Graham*, 20 Gr. 258, which was upheld

in appeal. The Act respecting the Solemnization of Marriage leaves untouched the important question raised in *Cullen* v. *Cullen* as to the right of Roman Catholic Bishops to dispense with banns and license, but otherwise legalizes marriages irregularly solemnized. There are other Acts of no small consequence with relation to the Rights of Innkeepers, the Garnishment of Workmen's wages, the Election Franchise, the Establishment of Industrial Schools, and the amendments of the Municipal Law, *cum multis aliis*, among which is that tremendous triumph of parliamentary pertinacity, "the Act respecting Line-fences," which we can only thus briefly refer to.

It is unquestionable that the student of the laws, be he apprentice, doctor or judge, must diligently bestir himself to keep pace with the march of legislation. Coke's explanation of the growth of the laws no longer meets the case—

> "Queritur ut crescent tot magna volumina legis,
> In promptu causa est, crescit in orbe dolus."

Not so much craft as craftsmen, not so much cunning in its modern and degenerated meaning, as cunning in its original and highest sense; not so much scheming as manifold schemes for the advancement of commerce and the development of the country: these are some of the causes of this abundant legislation, and it rests upon the diligence of the bar and upon the uprightness of the judge to lessen as much as may be the evils of crude legislation and to foster as far as possible all that will advance the best interests of the province.

JUSTICE SILENCE.

"Good Master Silence, it well befits you should be of the Peace."—*King Henry IV., Part 2.*

When we were speaking lately of Justice Shallow, we touched upon the manners and customs of those excellent young men the students of Clement's Inn. A good many years ago our own Osgoode Hall resembled, in some respects, the Inn where "lusty Shallow" once dwelt. A portion of it was occupied by students, who probably cheered the tedium of their studies with an occasional frolic. We fancy there are grave and grey-headed men at the bar, or on the bench, who looking back to the time when they lived as students at "The Hall," might exclaim with Shallow, "Oh, the mad days that I have spent!" Our country Justices, however, do not as a rule enjoy this pleasing retrospect. Their early years are devoted to the plough and axe more often than to books of law, or books of any other description.

In the plays of Shakespere, from which we have quoted, we find instructive passages in the private life of the Elizabethan Justice, but unfortunately we see nothing of him in his judicial capacity. This is matter for regret, since a Shakesperian picture of a weak, irritable and ignorant magistrate, dispensing equity according to his arbitrary notions of that science, would have been full of warning and instruction. But Justice Shallow does not become more profound, more dignified, or more impartial as the world grows older, and we find him depicted by the satirist in modern life, in much the same colours as he might have been painted in the days of Elizabeth. Every Justice may with profit reflect upon the humiliating figure made by the famous Nupkins, as recorded in that truthful record of human follies, the Pickwick Papers. We all remember Nupkins, into whose awful presence the unfortunate Pickwickians are dragged by the minions of the law on some fanciful charge. Nor do we forget the mild and useful Jinks clerk to that dignitary, who had served three years in an Attorney's office, and upon whose slender knowledge of the law the magistrate relies to get him through his

duties with moderate decency. Nupkins, having heard the highly-coloured statement of his satellite Grummer, is convinced that the prisoners are dangerous criminals, and with a noble appreciation of the rights of the accused Briton, proceeds to sentence them unheard. Then Mr. Pickwick, with indignant fervour, asserts the inalienable privilege of a British subject.

"First," said Mr. Pickwick, sending a look through his spectacles, under which even Nupkins quailed, "first I want to know what I and my friend have been brought here for?"

"Must I tell him?" whispered the magistrate to Jinks.

"I think you had better, Sir," whispered Jinks to the magistrate.

"An information has been sworn before me," said the magistrate, "that it is apprehended you are going to fight a duel, and that the other man, Tupman, is your aider and abettor in it. Therefore ————eh, Mr. Jinks?"

"Certainly, Sir."

"Therefore, I call upon you both to———— I think that's the course, Mr. Jinks?"

"Certainly, Sir."

"To——to——what, Mr. Jinks? said the magistrate, pettishly.

"To find bail, Sir."

"Yes. Therefore, I call upon you both—as I was about to say when I was interrupted by my clerk—to find bail."

"Good bail," whispered Mr. Jinks.

"I shall require good bail," said the magistrate.

"Fifty pounds each," whispered Jinks, "and householders, of course."

"I shall require two sureties of fifty pounds each," said the magistrate aloud, with great dignity, "and they must be householders, of course."

We hope that magistrates of the Nupkins stamp are not common. When they do exist, by their rashness, tyranny and complacent ignorance, they bring the sacred name of justice into contempt, and justify such sarcasms as Mr. Samuel Weller's: "This is a wery impartial country for justice. There ain't a magistrate going as don't commit himself twice as often as he commits other people."

It is with feelings of satisfaction that we turn from the rash and foolish Shallow to the discreet Silence. Justice Silence may have no more legal acumen and knowledge than his neighbour Shallow, but he has a fund of sense and discretion, which has earned for him the reputation of being an eminently respectable magistrate. Justice Silence reasons that a judge should keep two objects steadily in view. First, to decide rightly: second, to make the public think he decides rightly. It is not to be expected that a Justice of the Peace will always attain the first object. It is a pure matter of chance whether he will determine rightly or not, and after all the chances are equal. But the second object it is most important and more easy to effect. If the majesty of the law is to be duly recognized and reverenced, magistrates must take care to impress the public with a belief in the impartiality and correctness of their decrees. In this respect Justice Silence succeeds admirably, and may therefore be taken as the type of an excellent justice. His very appearance is calculated to inspire confidence in his administration of the law. His visage is solemn, his form portly, and his manner deliberate. In a word, he is gifted in a very considerable degree with what is known as judicial dignity. The cynic may say that what we call dignity, is simply the stolidness which belongs to mental vacuity; but after all, dignity, as some one has defined it, is nothing but a mysterious carriage of the body designed to conceal defects of the mind. We therefore claim that Justice Silence has that first attribute of the judicial office—dignity. As his name implies, Justice Silence is not given to over-much talking. A man of few words always passes for a wise man, and the acute public are wont to argue that if the magistrate does not waste many words, he "does a powerful sight of thinking." Justice Silence listens with never-failing patience to everything that everybody

wants to say, and we all know that this is one of the most beautiful characteristics of the perfect judge. Before him the youthful limb of the law may lay down the most novel doctrine without fear of contradiction, and may indulge to his heart's content that fondness for thoroughness and "first principles" which distinguishes youthful limbs, as in the case of the one who in moving for a "Final Order" began with a sketch of the jurisdiction of the Court of Chancery. Silence never descends to undignified contention with counsel, nor does he take a malignant pleasure in spoiling their neatest propositions with untimely and embarrassing queries. In truth he feels no over-weening confidence in his own legal abilities, and discreetly forbears to meddle with points of law. In this he presents a striking contrast to Justice Shallow, who is always rushing recklessly into argument, only to lose himself in a maze of reasoning, and to expose himself to scorn and derision. It is thus that Shallow is betrayed into such startling dicta as that the Statutes of Limitation are not in force in this province, or that a man who swears on a Roman Catholic Bible is legally disqualified from speaking the truth. Again, while Shallow's passion for talking and the sense of his importance lead him to aggravate the punishment he is about to inflict upon offenders, by scourging them freely with his tongue, Silence adds no such unkindness. He acts upon counsel such as the good Don Quixote gave to Sancho Panza, when about to assume the government of his island: "Him you are to punish with deeds, do not evil-entreat with words; for the pain of the punishment is enough for the poor wretch to bear, without the addition of ill language." By such a course does Silence conduce to his reputation, for the public who frequent the magistrate's court love fair play, and take a respectful interest in criminals. The thoughtless complain that Justice Silence is aggravatingly slow in making up his mind; but so was Lord Eldon, who was a respectable judge, and slowness is necessary to caution. But if he is slow in coming to a decision, having decided, he is immovable. When the dread sentence, couched in the fewest possible words, has passed his lips, no law of the Medes and Persians was ever more irrevocable. The decision, delivered with the firmness of conviction and after patient hearing, satisfies the public mind, and is never weakened by the indiscretion, on the Justice's part, of explaining the reasons on which it is based.

A general officer in the army, a friend of Lord Mansfield's, once came to that great man saying that he had just been appointed Governor of one of the West India Islands. This, he said, made him very happy till he found he was not only to be Commander-in-Chief, for which he thought himself not unfit, but that he was also required to sit as Chancellor and decide cases, whereas he was utterly ignorant of law, and had never been in a court of justice in his life. How he was to perform his judicial duties with decent success he was troubled to think. "Be of good cheer," said Lord Mansfield; "take my advice, and you will be reckoned a great judge as well as a great commander. Nothing is more easy. Only hear both sides patiently: then consider what you think justice requires, and decide accordingly. But—*never give your reasons*—for your judgment will probably be right, but your reasons will certainly be wrong." Here, then, we have the great secret of magisterial success—"never give reasons." It is by pursuing a course like that suggested by Lord Mansfield to his friend, that Justice Silence has gained a well-merited fame. The Justice who hopes for a similar reputation, must conform himself to the model of this respectable man: must emulate his patience, his gravity, and his reticence. By steadily

persevering in such a course he may expect the approbation of an admiring world, and that to him also shall be applied the gratifying encomium, "Good Master Silence, it well befits you should be of the Peace."

ELECTION PETITIONS.

All the light that can be thrown upon Election Law will be acceptable at the present time. We understand that Mr. Thomas Hodgins, Q.C., has prepared a treatise on the subject, which will very shortly be published, and will doubtless give us much assistance on points arising under the rather peculiar and incomplete state of the Statutes that regulate the law and procedure. Mr. Brough's book refers especially to the Ontario Election Law, but may be consulted with much advantage. The general question of Agency is one of the greatest difficulty. The *Law Times*, in a recent number, reviews the second edition of Leigh and Le Marchant's work on elections, and extracts from that and from a treatise by Mr. F. O. Crump, in Cox and O'Grady's Election Law, some passages on the question of Agency. In the former work it is stated :—

An agent is a person authorized by the candidate to act on his behalf in affairs connected with the election, and the candidate, as regards his seat, is as liable for acts committed by his agent as if he himself had been personally concerned therein; although the agent may not only have exceeded the authority committed to him, but have acted in opposition to the express commands of the candidate. So extreme, in fact, is the liability of the candidate for his agent, that the relation between them is not analogous to that existing at common law between principal and agent.

The candidate is answerable for the acts of his agent in the same way as a master is answerable for the acts of his servant done in the course of his employment, whether lawful or not, notwithstanding a prohibition may have been given to him by his master.

A candidate has been held answerable for acts committed by a person employed in a subordinate capacity by the agent for the purposes of the election on his own responsibility to the same extent as if those acts had been committed by the superior agent himself.

Besides the agent for election expenses, there are other paid persons whose names would appear in the detailed statement of election expenses under 26 & 27 Vict. c. 29, s. 4.

The mere fact of their names appearing in that statement as paid by the candidate for the purposes of the election would probably be held as sufficient evidence of their agency, unless they were merely employed and paid in some subordinate capacity such as that of a messenger or bill-sticker, &c. The candidate may be bound also by acts committed in the course of the election by other persons on his behalf, though not named in the election accounts and unpaid.

A man's wife, if she interfere in the election, is *ipso facto* his agent.

Any act, however trifling, is evidence of agency, and an aggregate of isolated acts will by their cumulative force constitute agency; though no one of them alone, if severed from the others, might be conclusive.

Exempli gratiâ :—

1. Being a member of the committee.
2. Canvassing alone, and with or without a canvassing-book.
3. Canvassing in company with the candidate.
4. Attending meetings and speaking on behalf of the candidate.
5. Bringing up voters to the poll.

From the latter work is extracted the following :—

The words used in the Corrupt Practices Act to denote acts which are to affect a member's return are these, "by himself or by any other person on his behalf." In one of the first petitions tried before a Judge (the *Norwich Petition*, 19 L. T. Rep. N. S. 615), the effect of these words was considered, and Baron Martin held that they included any person for whom in law the member was responsible, whether he be an agent directly appointed by the member, or whether he be an agent by reason of the construction which has been placed upon the Act of Parliament—a construction which, his Lordship remarked, is to some extent binding on the Judges. The contention of counsel for the respondent in that case was that the respondent could not be held responsible for an act to which he was not privy. This contention was at once disposed of, and without citing further authority —and every petition tried is an authority on this point—it is to be taken that the candidate

must suffer the consequences of the acts of every person for whom he is legally responsible.

The important question which we have now to consider is what constitutes an agent. And in the first place it should be observed that it was held by Mr. Justice Willes, in the *Windsor Petition*, 19 L. T. Rep. N. S. 613, that mere employment does not constitute agency, and that therefore bribery by a messenger unauthorised to canvass did not affect the election. Payment for services, indeed, is not an element in the matter at all, for it was held by Mr. Justice Blackburn, in the *Bewdley Petition*, 19 L. T. Rep. N. S. 676, that it is not necessary that an agent should be paid in order that his act should affect a member's seat. But agency is not established by the mere fact of a person's name being on the published list of the committee, 20 L. T. Rep. N. S. 24. Mr. Justice Willes there said, however, "If I find a person's name on a committee from the beginning; that he attended meetings of the committee; that he also canvassed, and that his canvass was recognised so far as it went, I must require considerable argument to satisfy me that he was not an agent within the meaning of the Act of Parliament."

So much for negative decisions. Now, as to affirmative, we have the high authority of Mr. Justice Willes for saying that no distinction is to be drawn, as regards agency, in cases of bribery, treating, and undue influence: 23 L. T. Rep. N. S. 990. His Lordship was at first disposed to exclude treating from the acts done by an agent which should avoid the election, but his conclusion was that the 36th section of the Act must be read literally. Therefore all the corrupt practices stand upon the same footing as regards agency. In the *Norwich Petition* (*sup.*) we have the strongest evidence of agency, for there the learned Judge held that the agency of a particular individual had been proved "up to the hilt." Three persons stated him to be a canvasser. It was proved that he canvassed in the company of the son of the sitting member, and that on the afternoon of the day of polling he went to a public-house and bought votes. Further, as to canvassing, Mr. Justice Willes, in the *Guildford Petition*, 19 L. T. Rep. N. S. 729, said (p. 732) "as a rule agency to bind the member would be agency to canvass or to procure votes on his behalf."

Now arises the question what is authority to canvass?

In the *Windsor Petition* (*sup.*) Mr. Justice Willes said, "an authority for the general management of an election would involve an authority to canvass." And in making that observation his Lordship remarks that he purposely used the word "authority" and not "employment," because he intended to refer to persons who were not paid for their services. It is quite clear, of course, as remarked by Mr. Justice O'Brien in the *Londonderry Petition* (Printed Judgments, Part II., p. 252), that no mere supporter of a candidate who chooses to ask for votes, and to make speeches in his favour, can force himself upon the candidate as an agent. In the *Westbury Petition*, Mr. Justice Willes said the act done to affect the candidate must be done by his procurement, and held it immaterial whether a desire that a person should canvass be expressed or implied, by words or by actions. And the learned Judge, in that case, gave a definition of canvassing. "Canvassing," he said, "may be either by asking a man to vote for the candidate for whom you are canvassing, or by begging him not to go to the poll, but to remain neutral and not vote for the adversary. No distinction can be drawn, except in the amount of favour, between voting for a man and abstaining from voting for his adversary. That such is the law appears from the 17 & 18 Vict. c. 102, which places on the same footing inducing a man to vote at an election and inducing a man to abstain from voting."

The question What is agency? was much discussed in the *Staleybridge Petition*, 20 L. T. Rep. N. S. at pp. 76, 77, especially with reference to the acts of volunteers. One of the counsel there urged that the responsibility of the candidate should be limited in the case of volunteers, —that the petitioners should be bound to show some authorizing on the part of the candidate to the persons whose acts are sought to be made available against him. In his judgment, Mr. Justice Blackburn considered the arguments addressed to him, and went fully into the matter. And first he noticed a mode of constituting a person an agent, which he had held in the *Bewdley* case to be most effective, that is so as to make the candidate responsible not only for the acts of the person so appointed, but for the acts of those whom that person might employ as his agents. Sir R. Glass put money into the hands of a person at Bewdley, and exercised no supervision as to how it was to be expended, simply giving directions that it should not be expended illegally. The judge came to the conclusion that there was such an agency established as to make the candidate responsible to the fullest extent. The evidence did not go so far as this in the *Staleybridge* case, but the learned Judge held that the mere act of taking the committee rooms by the volunteer committee

amounted to evidence that the sitting member and his people did request those committees to bring up voters when they could, and consequently that the persons who, joining those volunteer commiteees, went and fetched voters, were in one sense employed by the sitting member to bring up voters.

In this same case, Mr. Justice Blackburn takes occasion to say that he does not think the principle that a person employed to canvass makes the candidate responsible for his acts, laid down by Mr. Justice Willes in the *Windsor* case, can be accepted as a hard and fast rule. "As a general proposition," he said, "that would go a great way towards saying who is an agent, but I don't think we can take it as an absolute hard and fast rule, on which we can say that wherever a case of corruption has been brought home to a person who was within the limit, the seat should be vacated. The effect of that would be to say that wherever there were volunteers who were acting at all, and whose voluntary acting was not repudiated by the candidate or his agents; wherever, in fact, a person came forward and said, 'I will act for you and endeavour to assist you,' and the candidate or his agent said, 'I am very much obliged to you, sir;' any corrupt or improper acts done by the volunteer, although unconnected with with the member, would render the election void. At present," his Lordship added, "I cannot go further than to say that each case must be considered upon the whole facts taken together, and it must be determined in that way whether the relation between the person guilty of the corrupt practice and the member was such as to make the latter fairly responsible for it." This is equivalent to saying that no general rule can be laid down on the question of authority by implication; but his Lordship said, later on, that in drawing the inference the reason of the rule which makes a candidate responsible for the unauthorised acts of his agents should be borne in mind. It seems to be agreed by all the Judges that in considering the question of agency the nature of the acts done by the alleged agents are most material. In the *Staleybridge* Judgment, from which we have been quoting, Mr. Justice Blackburn said that "whenever it appears that the things are numerously done, it would go very far to show that the agents did come within that principle upon which the law is founded, viz: that they were persons, the benefit of whose foul play the member was to get, and therefore it would be right that he should forfeit his seat in consequence." The same learned Judge further considered this question in the *Hastings Petition*, 21 L. T. Rep. N. S. 234. His Lordship there says: "I have frequently had it in my mind that there is great difficulty, in strict logic, in making the agency of a person dependent upon the extent of the corrupt practices committed by him. It does seem that in strict logic, if a man would be an agent if he was shown to have corrupted one hundred people by paying them £5 a-piece, then if he corrupts only a single man by giving him a single glass of beer, he ought to be regarded as an agent equally. There is no doubt, in strict logical language, you will find a difficulty in making the distinction, yet I cannot but feel that, in administering justice and in administering the law in such a way that it would be tolerable, one must make some distinction of that sort. There is the same thing that constitutes a man an agent in the one case present also in the other case; but I cannot but feel that where the case is a small, isolated, solitary case, it requires much more evidence to satisfy one of agency than would otherwise be necessary. If a small thing is done by the head agent . . . . . the agent for the election expenses, I think that would have upset the election; and if small things to a considerable extent were done by a subordinate person, comparatively slight evidence of agency would probably have induced one to find that he was an agent."

This may be taken to be the view adopted by the election Judges; and having disposed of the mode in which an individual agent may be constituted, we will proceed to the question of the agency of associated supporters.

In the *Westminster Petition*, at page 246 of 20 L. T. Rep. N. S., Baron Martin deals with the point, observing that he could not suppose that where an association of persons numbering 600 or 700 members chooses to call itself a committee, therefore they become the agents of a candidate for the purpose of making him responsible for a wrong act or an illegal act done by them. And subsequently he defined a committeeman. "The Committeeman," he said, "whom I mean, and for whom I would hold Mr. Smith responsible, is a committeeman in the ordinary intelligible sense of the word, that is to say, a person in whom faith is put, and for whose acts he is responsible." Nothing more need be said as regards this, we having noticed the subject of the agency of political associations incidentally in discussing the *Wigan* and *Taunton* cases under "Candidate and Agent." Suffice it to say that it must be taken as established that there is no partnership privity between the parties subscribing to a political

association; nor does the fact of subscribing confer any authority upon the person who manages it to make them responsible for an illegal act done by him.

We have now to consider at what point an agent ceases to be an agent, so as to make a candidate responsible for his acts. And, in the first place, it is to be noticed that treachery will deprive an agent of his capacity as such. This was expressly pointed out by Mr. Justice Blackburn in the *Stafford Borough Petition*, 21 L. T. Rep. N. S. 212. He said, referring to the proceedings of one Machin, "If the evidence was to the effect that Machin, though he was then a paid agent of Colonel Meller, was at that time planning to betray Colonel Meller, that it was what is called a plant, then I do not think that Machin could any longer be considered an agent of Colonel Meller, so that his acts would vacate the election. I wish to point out the distinction which I make, that according as the law stands at present, if a member employs an agent, and that agent, contrary to his wish, and contrary to his directions, commit a corrupt act, the sitting member is responsible for it; but when he employs an agent, and the agent treacherously or traitorously agrees with the other side, then if he does a corrupt act it would not vacate the seat, unless it is proved that the corrupt act was at the special request of the member himself or some untainted and unauthorized agent of the member who directed the act to be done." His Lordship was very particular upon the point, for he added: "The distinction is pretty obvious, and I mention it to avoid any difficulty or doubt that there might be hereafter, from its being supposed that I have said anything more than I do say; I say if Machin was a treacherous agent he loses the power of upsetting the seat by reason of his unauthorized acts of corruption; it would require actual proof of authority in order to make it so. It is a very different affair if a man being an agent has been tricked by the other party into committing a corrupt act, he himself honestly still intending to act as an agent."

Express authority will, of course, recreate an agency which has lapsed or been annihilated. As above, it will do away with the effect of treachery; and in the case of corrupt acts done after the election, the agency, having ceased with the close of the election, may be revived by express authority, so as to constitute the person an agent, and thus to affect the return. "The agency at the election," said Mr. Justice Blackburn, in the *Norfolk Petition*, "which was solely for the canvassing before the election, expires with the election. Whether or no a person who had been requested to canvass would be an agent whose misconduct would avoid the election, would depend upon the evidence; but unless there is something to show continuing authority, that person could not, if he had given a feast ten days after the election, by that act upset the election."

Further, and lastly, it is perfectly clear that where there is a coalition between candidates, each becomes the agent of the other. The limit of this agency is shown in the *Norfolk Petition* before referred to. Here we conclude the consideration of the very difficult question of agency. Notwithstanding the diffidence expressed by all the Judges in dealing with it, and their doubts concerning the various attempts which have been made to define it, we do not conceive that there will be much difficulty in dealing with the next batch of petitions by the light of the judgments which we have been examining.

SELECTIONS.

LAW OF SEDUCTION.

The case of *Vian* v. *Maynard*, tried some months ago in the Court of Exchequer before Baron Cleasby, illustrated in a very forcible manner the anomalous condition of the English law on the subject of seduction. In that case there had been a previous trial for breach of promise of marriage brought by the daughter of the plaintiff, but as there was not sufficient evidence of a promise by the defendant the action failed. On this the father, in accordance with suggestions made at the former trial, brought an action for seduction against the defendant. Thus, owing to the rule of law that no action lies against the seducer at the suit of the party immediately interested, but that the only right of action is founded on the loss of the girl's services to her father, reducing the question to a case of master and servant, all the parties in this case were put to the trouble and cost of two trials, when the whole matter might have been very well settled on the first occasion but for the rule in question. If the woman who was seduced, and to whose father the jury awarded damages in the second action, could have brought an action for seduction in her own right, the two causes might have been joined, and all further trouble have been avoided. On what grounds such an anomaly is perpetuated it would be difficult to say,

except that it has become venerable by age. It has been commented on over and over again, and nothing but the aversion of the Profession from all changes in what they have become accustomed to could have kept such a rule in force. The rule amounts to this, that the party really injured has suffered no injury sufficient for the law to notice, but that her father, or master, who has lost her services, can bring an action for such secondary and inferior loss. This loss of service may be of the most trifling description. In one case, indeed, tried by Chief Justice Abbott, his Lordship held that the loss by a father of his daughter's services in making tea was a sufficient loss to enable him to maintain this action. But when the loss of service has once been established, then damages are heaped up on other grounds, and this practice had become so inveterate in Lord Ellenborough's time, that he said it could not be shaken. So that the damages given frequently include an appraisement by the jury of the moral delinquency of the defendant, and the injury and dishonour sustained by the real plaintiff and her family. Is it not time that a rule of law, which places a father's inconvenience in having to make his own tea above the loss of his daughter's virtue, and the dishonour they both suffer, should be abrogated, and the seduction itself be made the ground of action, if any such actions are to be allowed? There are some who think, however, that such actions should not be maintainable, the consent of the woman taking away the right of action. Whichever opinion prevails, it is very desirable that the law should be placed on a reasonable footing, and that juries should not import into their verdicts damages for injuries quite distinct from the ostensible one on which the verdict is founded.—*Law Times.*

DISTURBING RELIGIOUS WORSHIP—A CURIOUS CASE.

It is not often that a case arises combining the comical with the serious in as peculiar a manner as the case of *The State* v. *Linkhaw*, 69 North Carolina Reports, 214. The defendant, a member of the Methodist Church, was indicted for disturbing the congregation. It was in proof that he sang, during religious worship, in such a manner as to disturb the congregation, and greatly interrupt the services. One of the witnesses imitated his singing in a manner which "produced a burst of prolonged and irresistible laughter, convulsing alike the spectators, the bar, the jury and the court." It was in evidence that the disturbance occasioned by his singing was decided and serious. "The effect of it was to make one part of the congregation laugh, and the other mad; the irreligious and frivolous enjoyed it as fun, while the serious and devout were indignant." The defendant, being on many occasions expostulated with by the church-members and authorities, replied, "that he would worship God, and that as a part of his worship it was his duty to sing."

It was not contended by the State that the defendant had any purpose or intention to disturb the congregation; but on the contrary, it was admitted that he was conscientiously taking part in the religious services. Nevertheless, the trial court instructed the jury that he must be presumed to have intended the necessary consequences of his bad singing; and they accordingly returned a verdict of guilty. But the supreme court (Settle, J.) said that this admission of the State put an end to the prosecution; that, although a man is generally presumed to intend the consequences of his acts, yet the presumption is here rebutted by a fact admitted by the State. "It would seem," said the court, "that the defendant is a proper subject for the discipline of the church, but not for the discipline of the courts." —*Central Law Journal.*

JUDICIAL FORESIGHT.

Judges, in their anxiety not to be misunderstood, occasionally add to their judgments a caution that they must not be taken to decide more than is actually involved in the case, and that if certain ingredients had been in the case they probably have arrived at a different conclusion. Last year, a case which excited much attention at the time was decided in the Court of Queen's Bench, and Mr. Justice Archibald, in giving his opinion, qualified it in a manner almost proving prescience of a case which followed some seven months afterwards. In the first first case, *Harris* v. *Nickerson*, 42 Law

J. Rep. (N. S.) Q.B. 171, a sale had been advertised by the defendant, and the plaintiff attended to buy. At the sale, some articles which the plaintiff intended to purchase were withdrawn, so the plaintiff lost his time and his travelling expenses, and he brought a County Court action to recover these. The County Court judge found a verdict for the plaintiff; but the Court of Queen's Bench reversed that decision. Mr. Justice Archibald said that he could quite understand that if a *fraudulent* representation were made that a sale was to be held, a person who thereby lost money might maintain an action. The event showed the wisdom of the learned judge. In *Richardson* v. *Sylvester*, in the January number of our Reports, it appeared that the defendant had a farm to be let by tender. The plaintiff, upon seeing this, spent money in viewing the farm and otherwise. The defendant knew he had no power to let the farm, but inserted the advertisement to serve some other purpose of his own. The County Court judge nonsuited the plaintiff; but the Court of Queen's Bench reversed that decision on the well-known ground that the defendant had made a fraudulent representation, and that the plaintiff had acted on it and suffered loss—exactly, therefore, justifying the foresight of Mr. Justice Archibald.—*Law Journal.*

CROSS-EXAMINATION AS TO CHARACTER.

The high and ancient authority of Quintilian is often cited in favour of the practice of cross-examining witnesses as to their antecedents in life for the purpose of discrediting them, but the utmost difficulty has been felt in practice in determining what limit ought to be placed upon this privilege of the advocate. Quintilian says, *Si quid in ejus vitam dici poterit, infamiâ criminum destruendus;* but we may be sure that Quintilian would not have reckoned among *crimina* many of the acts which, in English Courts, are supposed to weaken the effect of the evidence of the person admitting them. In fact, when an attempt is made to forge a link between what is called character and veracity, the main difficulty lies in deciding what are, and what are not, proper materials for the purpose. Into the inquiry a whole host of moral, social, even religious problems are apt to thrust themselves—problems upon which the greatest masters of casuistry might agree to differ. Mr. Best does not help us in the matter, and Mr. Taylor only points out certain classes of questions, such as those going back to transactions of remote date, and those referring to mere improprieties, as fit subjects for exclusion. The cross-examination of Lord Bellew in *The Queen* v. *Castro* forms an excellent theme for controversy, and might be recommended, after the trial is over, to the attention of legal debating societies. Pending a decision, by some authority, on that line of cross-examination, we may refer to the case of *Stocks* v. *Ellis*, in the current number of our Reports, (42 Law J. Rep. (N.S.) Q.B. 241). There a commission had issued to examine a witness in the United States. The object of interrogating the witness was to obtain evidence upon the issue in the cause, whether certain yarns had been properly spun or not. The other side proposed to put certain cross interrogatories to the witness in order to extract from him an admission that he had gone to America with the wife of another man, leaving his own wife and ten children behind without means of support. The Court did not decide that these questions could not be put on cross-examination in open court, but rather intimated that they could. But the questions were disallowed on the Commission, because the Court thought that they were inserted not to test the credit of the witness, but to deter him from giving evidence altogether, and so to deprive one of the parties to the cause of testimony. The decision of the Court is a step in the right direction, and we are inclined to wish that it had gone a little further. Would any judge tell the jury that a man called to give an opinion whether certain yarns spun under his superintendence were well done or badly done, ought to be treated as less worthy of belief upon such a topic because he had committed a conjugal and social offence of the kind described. — *Law Journal.*

CANADA REPORTS.

ONTARIO.

NOTES OF RECENT DECISIONS.

CHANCERY CHAMBERS.

HIGGINS v. MANNING.

Security for costs—Nature of property within the jurisdiction necessary to discharge order.

[The Referee, 9th March—Strong, V. C., 23rd March, 1874.]

A plaintiff resident abroad will not be released from giving security for costs, unless he shows that he has property to the value of $400 within the jurisdiction, available in execution.

Leasehold property may be sufficient.

A plaintiff had property within the jurisdiction, consisting of a one-sixth interest (nominally worth $2666) in lands subject to a lease made to the defendants by the plaintiff's ancestor, the validity of which lease was in question in the suit. This lease was for twenty-one years, and gave the defendants an option to purchase, and under its terms no rent or taxes were to be paid until the title had been quieted, or a certificate refused; and in the latter event the defendants were to accept the title or give up the term. Proceedings for quieting the title had been instituted, but were still pending.

Held (by the Referee), that the conditions of the lease were of such a character as to make it doubtful whether the plaintiff's interest in the reversion would realize $400 if sold under an execution; and application to discharge order for security dismissed.

Held (by Strong, V. C., on affirming the order), that, if the plaintiff succeeded in the suit, the land would be subject to the debts of the plaintiff's ancestor; and if he failed, the purchase money, when payable by the lessees, would be payable not directly to the plaintiff, but to his ancestor's personal representative; that the plaintiff had not in fact such an interest in the property as could be directly reached by execution.

SWETNAM v. SWETNAM.

Administration order—When administrator may apply.

[Strong, V. C., on appeal from the Referee—23rd March, 1874].

The fact of there being a deficiency of assets in an intestate's estate, by which all creditors become entitled to share *pari passu*, is sufficient to justify an application by an administrator for an administration order, notwithstanding that the estate consists solely of personalty.

OUTRAM v. WYCKHOFF.

Administration order—Will not proved.

[The Referee—24th March, 1874].

An administration order, applied for against a person named as executor in the will, but who had not taken out letters Probate, was refused, there being no duly appointed personal representative before the Court. (See *Rowsell* v. *Morris*, L. R. 17 Eq).

QUEBEC REPORTS.

SUPERIOR COURT.

The Queen and Joseph Lougee, et al., Justices of the Peace; and Warren Paige, Petitioner, and John Griffith, Collector of Inland Revenue, Respondent.

Tavern and Shop Licenses—32 Vic. Cap. 32, sec. 39—Power of Dominion and Local Legislatures—B. N. A. Act, sec. 92—Jurisdiction given to two Justices—Powers of more or less to act.

Held, 1. That when two Justices of the Peace are appointed by statute to adjudicate upon complaints, more or less than two does not meet the requirement.

2. That the B. N. A. Act, sec. 92, ss. 15, confers power upon Local Legislatures to enforce laws, made upon subjects within their jurisdiction, by both fine and imprisonment.

Sanborn, J. —The petitioner in this case raises six objections to a conviction made by three Justices of the Peace, whereby he is condemned to pay two penalties, $100, and costs $28.46, for selling by retail spirituous liquors in the Temperance Hotel of William Paige, of Compton, and is ordered to be imprisoned for six months unless the amount awarded be sooner paid:

1.—That the tribunal constituted to adjudicate upon complaints under the License Act, as respects ordinary magistrates of the District, consists of "two Justices of the Peace for the District," and more or less than two does not meet the requirement.

2.—That there is no offence specified in the complaint to which the penalty is attached.

3.—That the conviction should be complete without reference to the complaint, and should be in the form provided by the Act.

4.—That the conviction containing an order of imprisonment upon the option of complainant should be declared bad, as time must be given after conviction for petitioner to pay, and then only, upon failure to pay, could the prosecutor declare his option for imprisonment without distress.

5.—That petitioner had been illegally convicted of two offences without mention of the time when each was incurred.

6.—That the evidence is illegally applied to both charges indiscriminately, and sustains neither as to specific time, as alleged in the complaint.

There is a certain degree of force in all these objections. The conviction is obnoxious to criticism in all these particulars. As respects the first ground, I consider it a fatal objection. Under section 152 of the License Act, all actions or prosecutions when the sum or penalty demanded, or such sum and penalty combined, do not exceed one hundred dollars, may be brought before any two Justices of the Peace for the District, or a Judge of the Sessions of the Peace, or a Recorder, or a Police Magistrate or Sheriff.

By sub-section 2 of section 153 it is expressly declared that when such prosecution is brought before any two other Justices of the Peace (that is, any two other than a Judge of the Sessions, &c.,) the summons may be signed by one of them, but no other Justice shall sit or take part therein, unless by reason of their absence, or of the absence of one of them, nor yet in the latter case without the assent of the other of them. This last provision was made, doubtless, to prevent Justices unfavourable to the prosecution from coming in and taking the case out of the hands of those who were first seized of it, and to prevent unseemly divisions among magistrates; but the enactment cannot operate in one way and not in the other.

There are certain expressions in the Act which seem to presume that more than two Justices may sit. Jurisdiction cannot be conferred by inference. It is expressly given to a certain tribunal, and none other can exercise it. Oke says: "The special authority given to Justices must be exactly pursued according to the letter of the Act by which it is created, or their acts will not be good:" Oke's Magisterial Synopsis, p. 38. The same author says: "Where the statute refers the matter to the next Justice, or to any two Justices, no other but the one answering that description, or those having jurisdiction by common law or Act of Parliament, has any authority, and it does not enable them to act in any county." (Idem, p. 10.) These special jurisdictions are numerous in England, created by various Acts, so much so that this author has provided a table showing under the various Acts giving summary jurisdiction, in one column the penalties, in another the right of appeal or other wise, and in another the number of Justices or the special tribunal to hear. The principle is recognized by other writers, and amongst these by Tomlins in his work on the Office and Duties of Justices of the Peace, and by Dwarris on Statutes, and by Paley on Convictions. The doctrine is based on several decisions, among which are the *Saunders case*, *Kite* v. *Lane*, and *Re Peerless*. It is said by respondent that petitioner accepted the jurisdiction, by pleading and not objecting to it. This cannot give to a Court jurisdiction when it has none by law. Magistrates under penal acts have no jurisdiction except such as is conferred by statute, and in the manner in which it is given by the statute: Tomlin's J. P., p. 120-4; Dwarris on Stat., p. 53; Paley on Convictions, pp. 15 and 16; *Saunders case*, 1 Saunders, 263; *Re Peerless*, 12 Q.B., 643; *Kite* v. *Lane*, 8 C. L. R., 44; *Regina* v. *Wilcocks*, 53 C. L. R., 315. Upon this ground the conviction must be quashed. There are other points raised here which are of sufficient practical interest to deserve consideration.

The second objection, that no offence is charged, I do not consider good for the reason given, that there should have been specific allegations that there was a sale in less quantity than 3¼ pints. The word "retail" under section 196 is made to mean this, and is a sufficient averment to meet the requirements of section 2. There is, however, a very important variance which was not mentioned in the argument. The complaint is, that petitioner did vend, sell, retail, &c., in the Temperance Hotel of William Paige. The penalty is incurred, under the second section of the Act, for selling in the person's own house or premises, or in or upon any house, boat or barge, &c., upon frozen water; but not for selling in the house of another. Why this Act is so restrictive I cannot say; but it is so. It is true that under section 170 the delivery of spirits in a tavern is declared a violation of the first and second sections, but this does not enable a party to sue for a penalty in any other terms than those mentioned in the second section. The Act very illogically makes a sale in a tavern proof of sale in one's own house, or upon one's own premises, or in a building upon frozen water, but it does not warrant a conviction unless the complaint is for an offence described in said 2nd section. The conviction must describe the offence according to the statute: *Cloud* v. *Turfrey*, 9 C. L. R., 596; *Rex* v. *Walsh*, 28 C. L. R., 125; Paley on Convictions, p. 67; 2 Oke, 132.

The third objection, that the conviction

should have been in the form given by the Act and should be separate from the complaint, is not without reason. The Act says, "these forms or others of like effect." A conviction which is not perfect in itself is not a form "of like effect." There may be an informal conviction which may be extended: Paley on Convictions, pp. 61-2. In fact this is a common practice, and it has been held that the formal conviction can be made at any time before the record is sent upon Certiorari: *Silwood* v. *Mount*, 48 C. L. R., 55. It has even been held that such formal conviction can be drawn up and substituted for the informal one at any time before the conviction is quashed: *Carter* v. *Grecian*, 66 C. L. R., 216. The informal conviction as sent up in this case is certainly objectionable.

The fourth objection is that the option of prosecution for imprisonment instead of distress is no part of the conviction, and being included therein vitiates the conviction. The regular mode, undoubtedly, is, first to convict, then the defendant is expected to pay *instanter;* if he does not, the prosecutor may choose imprisonment under the Act, instead of distress. There is a reported case in which, under like circumstances, immediate imprisonment was held good, even when defendant was not present at the time of conviction. In that case, however, the conviction appears to have been entered, and the order for imprisonment was a subsequent act: *Arnold* v. *Dimsdale*, 75 C. L. R., 579.

This adjudication of imprisonment, being a substantive part of the conviction, leads me to consider the question decided by Mr. Justice Torrance, as well as by Mr. Justice Drummond in the Papin case. (*Ex parte Papin*, 16 L. C. J., 319 and 8 C.L.J., p. 122.) It is there held that the British North America Act does not confer power (sec. 92, ss. 15) upon the Local Legislature to enforce laws made upon subjects within its jurisdiction by both fine and imprisonment at the same time. I cannot agree with this holding. The words of the Imperial Act are: "the imposition of punishment by fine, penalty or imprisonment, for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section." It was held in the case referred to that only one of these modes of punishment could be exercised at one time, because the enactment is in the alternative, as indicated by the word "or." I think it was intended by this section to give the range of these modes of punishment, not one or other of them and only one at a time. The word "or" is not necessarily disjunctive in all cases. It is sometimes a mere connective. For instance, Art. 325 of the Civil Code provides for interdiction in case of "imbecility, insanity or madness." Ray, in his Medical Jurisprudence, classifies under the general head of insanity, idiocy, imbecility, mania and dementia, and remarks, "It is not pretended that any classification can be rigidly correct, for such divisions have not been made by nature and cannot be observed in practice": Ray's Medical Jurisprudence of Insanity, p. 84. The word "or" in this instance cannot certainly be used in a disjunctive sense. Dodderidge, J., in *Creswick* v. *Rokeby*, 2 Bulsts., 47; Dwarris on Statutes, p. 773 — said, "When the sense is the sama the words 'and' and 'or' are all one, and the words conjunctive and disjunctive are to be taken *promiscue.*" I take it, at all events, that there is sufficient ambiguity in the expression to warrant a resort to the rules of interpretation where there is want of explicitness in the words of the statute. The B. N. A. Act, conferring legislative powers, is not to be construed rigorously, like a penal act conferring judicial powers. Prior to the B. N. America Act there can be no doubt that each Province had the power to enforce laws which now relate to subjects under the exclusive jurisdiction of the Provincial Legislature by fine, penalty and imprisonment, using discretion as to one or all, as circumstances might require. It is a generally accepted doctrine that where the Imperial Government has granted powers to a colony, it never withdraws them. This doctrine is recognised in *Phillips* v. *Eyre*, Law Rep. (Q.B. p. 42.)

If the Imperial Act is to be understood in the reductive sense, and the Provincial Legislature can only enforce its laws by fine, penalty or imprisonment, taking its option by one of the three modes, but by only one of the three modes, then a right and power which existed before that Act was passed has been taken away, inasmuch as the Provincial Legislature has exclusive jurisdiction over certain classes of subjects, and if it has not the large powers that existed under the old constitutional acts, it has been taken away altogether; and the inference necessarily follows that it was intended, contrary to constitutional maxims of legislation, to abridge our powers, and it has been done.

This conclusion should not be reached unless we are forced to it by explicit enactment, or by evident intendment gathered from the Act generally. Chancellor Kent says (Kent's Commentaries, vol. 1, pp. 431, 434.) "It is an estab-

lished rule in the exposition of statutes that the intention of the lawgiver is to be deduced from a view of the whole and every part of a statute, taken and compared together. "The real intention, when accurately ascertained, will always prevail over the literal sense of the terms." Again he says: "For the sure and true interpretation of all statutes, whether penal or beneficial, four things are to be considered; 1. What was the common law before the Act. 2. What was the mischief against which the common law did not provide. 3. What remedy it provided to cover the defect; and 4. The true reason of the remedy." Applying these rules in their spirit, we must consider what legislative powers existed in the several Provinces of the Dominion prior to the passing of the British North America Act, and was it the intention to abridge these powers, or simply to make a new distribution of them? I think, plainly the latter. The words "by fine, penalty, or imprisonment," were not so well chosen as more definite language, to express the intention of the legislators, but I cannot think it was intended to give power to the Provincial Legislature to exercise only one of these modes of punishment at a time in any particular Act. It must have been intended to apply each according to the circumstances and gravity of the offence, and to use both or all when required. If the expression "fine, penalty, or imprisonment," is to be understood distributively as between penalty and imprisonment, it must be so understood as between fine and penalty, which would create a distinction too subtle for practical application. In fact the words fine and penalty are so alike that the one runs into the other. Dwarris says: (Dwarris on Stat., p. 704) "In construing Acts of Parliament, judges are to look at the language of the whole Act, and if they find in any particular clause an expression not so large and extensive in its import as those used in other parts of the Act, and they can collect, from more large and extensive expressions used in other parts, the real intention of the Legislature, it is their duty to give effect to the larger expressions." For these reasons I am of opinion that the Provincial Legislature has not exceeded its powers in enforcing the License Act, or any other law relating to the class of subjects within its jurisdiction, by all the modes mentioned, used separately or together, according to circumstances.

The conviction here is for two offences, incurring two penalties, and it is urged that the time and place should be definitely stated under sec. 158. This objection has much force. In such case the conviction should be full for each offence, specifying the offence, time, place and penalty. This is in accordance with English practice where similar law was in force (1 Oke's Mag. Syn., 175.

The sixth objection is that the evidence was taken illegally upon both charges indiscriminately. This was a matter within the discretion of the Justices, and is not a ground for *certiorari*.

The conviction will be quashed, but without costs, as the revenue officer acts on behalf of the Government.

ENGLISH REPORTS

ELECTION CASES.

TAUNTON ELECTION PETITION.

Agency.

To render a candidate responsible for the unlawful acts of persons who have supported his canvass, he must be proved by himself, or his authorized agents, to have employed such persons to act on his behalf, or to some extent put himself in their hands, or to have made common cause with them for the purpose of promoting his election.

[Ir. Law Times, 1874, p. 74.—Jan. 26.]

GROVE, J.—in delivering judgment, stated that the respondent was charged with bribery and treating by himself and his agents, and that there was also an imputation of general bribery and treating. He intimated that there were no proper grounds for making any personal imputation against the respondent, and that with regard to general bribery and treating and corruption so as to taint the whole constituency, and thus render the election void, he saw no reason for coming to the conclusion that extensive bribery or corruption prevailed at the election. He then proceeded to say:—I come now to the point upon which the great contest in this case arose. Did the respondent, not by himself or by any conscious authority, but by the hands of an agent or agents for whom he is responsible, so bribe or treat that this election must be declared void? The law of agency, as applied to election petitions, has been sufficiently expressed by different learned judges, some of whom have likened it to the relation of master and servant, and another to the employer of persons to run a race for him; but no exact definition, meeting all cases, has, as far as I am aware, been given. Two learned judges—the late Mr. Justice Willes, and Mr. Justice Blackburn—have pointed out the difficulties of arriving at one. All agree that the relation is not the Common Law one of principal and agent,

but that the candidate may be responsible for the acts of one acting on his behalf, though the acts be beyond the scope of the authority given, or, indeed, in violation of express injunction. So far as regards the present case, I am of opinion that to establish agency for which the candidate would be responsible, he must be proved by himself or by his authorized agent, to have employed the persons whose conduct is impugned to act on his behalf, or to have to some extent put himself in their hands, or to have made common cause with them for the purpose of promoting his election. To what extent such relation may be sufficient to fix the candidate with responsibility, must, it seems to me, be a question of degree and of evidence to be judged of by the Election Petition Tribunal. Mere non-interference with persons, who, feeling interested in the success of the candidate, may act in support of his canvass, is not sufficient, in my judgment, to saddle the candidate with any unlawful acts of theirs of which the tribunal is satisfied he or his authorized agent is ignorant. It would be vain to attempt an exhaustive definition, and possibly exception may be taken to the approximate limitation which I have endeavoured to express. It must also be borne in mind in these cases that, although the object of the statute by which the tribunal of election judges was created was to prevent corrupt practices, still the tribunal is a judicial and not an inquisitorial one. It is a Court to hear and determine according to law, and not a Commission armed with powers to inquire into and suppress corruption. Without expressing myself in equally strong terms with Baron Martin in the Wigan case, I am of opinion that the evidence of corrupt practice must establish affirmatively, to the reasonable satisfaction of the judge, that the acts complained of were done. The learned judge then proceeded to consider the evidence in the case. Witnesses were called who said they had seen a man named Rollings, against whom bribery and treating were alleged, either accompanying Sir Henry James during his actual canvass, or so in company with him as to lead to a reasonable inference that he was aiding him in his canvass. The best of these witnesses admitted that they had only seen the backs of Sir Henry James and the man with him. The other evidence was slender, and when Sir Henry James was examined he most emphatically contradicted it, stating that, if he had met him in the street he did not know him, and that most certainly he never canvassed with him, or with his sanction for him. It was admitted by the counsel for the petitioners that the fair result of the evidence was that there was not enough to satisfy me of any agency deduced from personal canvass with the candidate himself with the exception of Turner. I am clearly of this opinion, and it applies also to Turner, Stuckey, and Govier, and I decide that on the whole case there was no reasonable evidence to satisfy me of agency by personally accompanying the candidate on his canvass. The learned judge, after stating that it was admitted that Burman was Sir Henry James's agent, for whose acts he was responsible, commented on Smith's evidence with regard to the sale of timber and the payment of £5 for drink, and stated that it was obvious that Smith came forward under circumstances which threw the greatest suspicion on his testimony. He came forward as an informer of a corrupt transaction to which he had been a party, for he had induced his daughter knowingly to make a false and fraudulent alteration in a bill to enable Rollings to obtain repayment from the respondent or from some agent of his by false pretences. As he admitted having bribed a voter, and his antecedents were far from satisfactory, he looked upon his evidence, not as that of a credible witness, but to see how far it was corroborated. His wife was called to support his veracity, and it was alleged that she had detected a conspiracy to injure Farrant and Brannan; but it was admitted that £15 had been paid by Farrant and Brannan to Poole. Smith was also said to have received money from Small to bribe, but the evidence of the bribery by Smith was utterly unworthy of credit. Here Rollings was said to have treated voters, but there was little or no evidence to connect him with the respondent, although he was frequently alleged to have been in company with Burman, and had been seen to go into committee rooms—Sir Henry James having no committee-rooms in the ordinary election sense of the term. The evidence was of very little value, as many witnesses could not fix dates; the times and occasions had been probably multiplied by different persons called, and most of them spoke to the facts happening before the committee-room was really taken. Other evidence of small bribes or offers to bribe and treat was adduced as having been committed by Stuckey, Turner, and Govier, who were alleged to be agents, for whom Sir Henry James was said to be responsible. The best of these cases was that deposed to by a man named Mogg, a man of the highest character, who gave his evidence with remarkable apparent truthfulness, and, small as the incident is, the question of Sir Henry James's seat might have depended on

the question of Govier's agency, but no evidence of his agency was given by the petitioners, beyond his having paid for Burman small sums for services connected with the canvass of Sir Henry James. The learned judge then continued as follows.—A *prima facie* case was made which certainly had an impression upon me, viewing, in the light of probabilities, the evidence which from the character of the witnesses —at least many of them—could not be regarded as thoroughly reliable. Serjeant Ballantyne did not propose to call Rollings, perhaps fearing damaging disclosures, and I suggested his being called, and I think the truth has more fully appeared in consequence. For the respondent were called himself, Mr. Biron, Rollings, Burman, Cornish (Collard, who contradicted Jane Cox), and Turner. Sir Henry James disproved to my entire satisfaction any agency by canvassing on the part of Rollings, Turner, Stuckey, and Govier, and, so far as he was concerned, denied all agency but that of Burman. Rollings contradicted Smith, emphatically stating that the timber transaction was a pure business one, and that what he had done in furtherance of Sir Henry James's election was spontaneous, and he showed that his evidence, in the main, might be relied on. Burman gave his evidence in a singularly candid and apparently truthful manner, shrinking from no inquiry, exhibiting evidences of veracity in incidental matters, and answering questions against himself; so that he was either a most truthful witness or a consummate actor, and no hint or insinuation was made as to his antecedents. He denied Smith's story, and stated that he had seen Rollings but rarely during the election, and had not employed him directly or indirectly to promote Sir Henry James's election. The case does not depend on the veracity of Smith and Rollings further than so far as the former directly contradicts Burman. I hesitate to decide between them, as the statements of Smith directly implicating Burman are entirely uncorroborated. It is enough to say that if I believe Burman's evidence, all agency traced through him is displaced, and I do believe Burman's evidence, and cannot imagine that such unassailable evidence is a piece of accomplished acting; and if it were, he would not be a man likely to put himself in the power of such a man as Smith for a very trifling consideration. With regard to the cases of Turner, Stuckey, and Govier, I am inclined to believe Turner, though I regret that Stuckey and Govier were not called. I consider that neither they nor Turner were proved to be agents for whose acts the respondent was responsible. Govier was stated by Burman to have assisted him as a volunteer in paying some of the petty cash, but there was no evidence, in my judgment, to fix him with agency in promoting the election, even giving a wide latitude to these relations. One other point was urged much more in reply than in opening the petitioner's case by Mr. Russell—that the respondent and his agents, by having mixed themselves with and availed themselves of the aid of the members of the Labour League, were bound by their acts as by the acts of agents. I do not find that any corrupt acts charged were shown to have been committed by the Labour League as a body or any representative of theirs, and I am further of opinion that neither the respondent nor Burman did more than not interfere with persons who were assisting the candidate for reasons of their own. Burman, it is true, paid a particular bill, in which were some items which had been ordered by the Taunton Working-men's Liberal Association, and I believe the statement that he was, up to the time of his cross-examination, ignorant of having paid them. I am therefore of opinion that the petitioners have failed to prove agency, and that Sir Henry James was duly elected, and I shall report to that effect to the Speaker. Mr. Marshall's position was unassailable, but that of Mr. Brannan was open to observation with reference to the pecuniary transaction with Smith and the £15 paid to Poole. I am not satisfied with the way in which the evidence has been got up. I exonerate Mr. Ellis, but no doubt the shortcomings are owing to the youth and inexperience of Mr. Blake, who was responsible for the petition; and, considering the matter fully, I am of opinion that there is nothing to take the case out of the ordinary rule that costs follow the event and should be paid by the petitioners.

In re The Exeter Election Petition.

The Proceedings upon an Election Petition drop upon the dissolution of Parliament.

[Solicitors' Journal, January 27, 1874.]

This was an application with reference to the Exeter Election Petition.

Chandos Leigh appeared for the petitioners.

Petheram for the respondents.

Chandos Leigh said that the petition had been appointed to be heard before Bramwell, B., on the 3rd of February, but the question had now arisen as to what was the effect of the dissolution of Parliament. Under the circum-

stances he and the counsel for the respondent had gone before Bramwell, B., who had drawn up a memorandum to be signed by them, but expressed the wish that the matter should be first brought before the Court. The memorandum was in these terms:—"Considering that the main object of the petition cannot now be attained, and that it is very doubtful whether by the dissolution of Parliament it is not abated and ended, which indeed we think it is; and there never having been any intention of charging Mr. Mills with personal bribery or corruption; we agree that all proceedings on the petition drop, and that the money deposited be paid out of court, and an order made to that effect." He now applied for a rule to carry out this arrangement. The statute (31 & 32 Vict. c. 125) said nothing as to a dissolution, but the 35th section said that a petition should be proceeded with, notwithstanding a prorogation, and the petition could not be withdrawn, because the statute said that in that event the petitioner should be liable to pay costs.

Lord Coleridge, C.J.—Before the Act passed the Parliamentary practice was that a petition dropped by dissolution, and you say that as the Act says nothing upon the point this practice continues. You simply want a rule that the money should be paid out of court.

Petheram said that he was instructed to consent to a rule that the money should be paid out of court on the distinct statement that there never had been any intention of charging Mr. Mills with personal bribery or corruption.

Lord Coleridge, C.J.—We have nothing to do with that. I am of opinion that the Queen having been pleased to dissolve Parliament—of which the Court will take judicial notice—a case has occurred which is not provided for in the 31 & 32 Vict. c. 125; and therefore we must guide our proceedings by the old Parliamentary practice, according to which a petition dropped or abated by a dissolution. This being so, I have no doubt that there should be a rule to return the £1,000 which has been deposited.

Rule absolute granted.*

* Sittings in Banco.—Before Lord Coleridge, C.J., and Keating and Denman, JJ.)

DIGEST.

DIGEST OF ENGLISH LAW REPORTS

FOR AUGUST, SEPTEMBER, AND OCTOBER, 1873.

From the American Law Review.

Abandonment.—*See* Charter-party, 2.

Accessories.—*See* Extradition.

Action.—*See* Contract, 3; Principal and Agent, 2; Rent Charge; Theatrical Engagement.

Advance against Freight.—*See* Charter-party, 3.

Affidavit of Documents.

Where a bill was filed by the Republic of Liberia, the plaintiffs were ordered to file the usual affidavit, stating what documents, if any, they had relating to the matters in question.—*Republic of Liberia* v. *Imperial Bank*, L.R. 16 Eq. 179.

Agreement.—*See* Contract.

Alimony.

A husband who had been separated from his wife for many years had covenanted to pay, and had paid, a small annuity to his wife. The husband instituted a divorce suit against his wife because of her adultery, and the wife petitioned for alimony because of her husband's fortune having largely increased since said covenant to pay an annuity. No alimony was allowed.—*Powel* v. *Powel*, L.R. 3 P. & D. 55.

Alternative Contract.—*See* Damages, 2.

Annuity.

The defendants by their negligence caused the death of R., who was under covenant to pay the plaintiff an annuity of £200 during their joint lives. An "accountant," acquainted with the business of life insurance, after referring to the "Carlisle Tables," testified as to the value of an annuity of £200 for the life of two persons of the respective ages of R. and the plaintiff. The judge instructed the jury that they might calculate the damages which the plaintiff was entitled to recover, by ascertaining the sum of money which would purchase an annuity of £200 for a person of the plaintiff's age, according to the average duration of human life. *Held*, that said witness was competent, though not an actuary; but that as the plaintiff had lost an annuity for the joint lives of herself and R., and as an annuity upon the plaintiff's life only would be of greater value, said instructions were erroneous.—*Rowley* v. *London and North Western Railway Co.*, L. R. 8 Ex. (Ex. Ch.) 221.

Arbitration.

Two parties, between whom there was great hostility, left certain matters in dispute to two arbitrators, who were to select a third. During the arbitration one of the parties lunched at his expense the arbitrator whom he had appointed the third arbitrator, his solicitor, a

short-hand reporter, and himself. *Held*, that said lunch furnished no ground for setting aside the award. The two arbitrators first appointed erroneously appointed a third as *umpire*, but, after the mistake was discovered, appointed a third arbitrator, and began proceeding *de novo*, and the parties to the submission agreed not to impugn the award. *Held*, that any irregularities in the proceedings were waived by beginning *de novo* and and by said agreement.—*Mosely* v. *Simpson*, L. R. 16 Eq. 226.

Assignee.—*See* Rent-charge.

Attestation.—*See* Will.

Attorney.—*See* Costs.

Average.—*See* General Average.

Award.—*See* Arbitration.

Bequest.—*See* Devise; Legacy; Vested Interest; Will.

Bill of Lading.—*See* General Average.

Bills and Notes.

1. An incorporated company sold to M. an instrument under the seal of the company, and countersigned by two directors and the secretary. The instrument was headed with the name of the company, was called a debenture, was numbered, and promised to pay the bearer, subject to the printed conditions indorsed thereon, £100 on May 1, 1872, or on any day on which the bond was entitled to be redeemed, according to said conditions. By said conditions a certain number of indentures were to be drawn periodically and paid off. M.'s indenture was stolen, and purchased in good faith by the plaintiff. The company, having notice of the robbery, refused to pay the indenture. It was admitted that such instruments were in practice treated as negotiable. *Held*, that the conditions of said instrument prevented it being a promissory note; also, that by contracting to pay the bearer the company could not render the title of the owner liable to be divested by theft and sale to a *bonâ fide* purchaser; and that the alleged custom could not annex such an incident to the contract. Whether an instrument under the seal of a corporation can be a promissory note, *quære*.—*Crouch* v. *Credit Foncier of England*, L. R. 8 Q. B. 374.

2. W. and B. were in partnership as attorneys. B., without authority from W., drew a bill, in a private transaction, upon the defendant in the firm name, and in the firm name indorsed it to the plaintiff for value. The defendant accepted the bill, which was dishonoured at maturity. *Held*, that the defendant was not estopped from denying that the bill had been indorsed by said firm.—*Garland* v. *Jacomb*, L. R. 8 Ex. (Ex. Ch) 216.

See Bankruptcy, 2; Damages, 2; Trust, 2.

Broker.

The plaintiffs, brokers in the London Stock Exchange, bought stocks for the defendant for the 15th of July, and on that day, by the defendant's instructions, carried them over to July 29th, the next account day, paying differences amounting to £1,688. On the 18th of July the plaintiffs, being unable to meet their engagements, by reason of the defendant's and others' failing to make their due payments, were declared defaulters, and according to the rules of the Stock Exchange all their transactions were closed at the prices current on that day. The result of this was to make the plaintiffs liable to pay further differences on the stocks carried over for the defendant. *Held*, that the plaintiffs were not entitled to recover anything beyond said £1,688, as the defendant was not liable for the plaintiffs' losses caused by their own insolvency.—*Duncan* v. *Hill*, L. R. 8 Ex. (Ex. Ch.) 242; s. c. L. R. 6 Ex. 6 Am. 255; Law Rev. 98.

Cancellation. *See* Wills, 4, 5.

Carrier.—*See* Negligence.

Cause of Action.—*See* Contract, 3.

Charity.—*See* Cy Pres.

Charter-Party.

1. Declaration on a charter-party between the plaintiff and the owners of the C., "expected to be at Alexandria about 15th of December," alleging that the C. was not expected to be at Alexandria about the 15th December, but was in such part of the world and under such engagements that she could not be at Alexandria about the said day. Demurrer, and plea that the plaintiff knew the voyage the C. was on, and that said charter-party was made subject to the condition that the C. should fulfil her engagements and then proceed to Alexandria. Demurrer to the plea. *Held*, that the above-quoted words amounted to a warranty that the vessel was in such a position that she might reasonably be expected to be at Alexandria about the 15th December; but that said plea was a good one. Judgment for plaintiff on demurrer to the declaration, and for the defendant on demurrer to the plea.—*Corkling* v. *Massey*, L. R. 8 C. P. 395.

2. On the 22nd November, 1871, the plaintiff entered into a charter-party with R., by which the vessel was to proceed from Liverpool to Newport, and there ship a cargo of iron rails for San Francisco, ordinary perils excepted, &c. On the 9th December, the plaintiff effected insurance with the defendants "on chartered freight valued at £2,900 at and from Liverpool to Newport in tow, while there, and thence to San Francisco," &c. The ship sailed Jan. 2, 1872, and on Jan. 4 took the rocks before arriving at Newport. On February 18 she was got into a place of safety, and was got off the rocks March 21. On August 16, 1872, the time of the trial, the vessel was still under repair. Due notice of abandonment was given, but was not accepted. On the 16th February, 1872, R. chartered, without the consent of the plaintiff, another ship, by which he forwarded the rails to San Francisco. The jury found that the time necessary for getting the ship off and repairing her was so long as to make it unreasonable for the charterers to supply the agreed cargo at the end of such time; and that such time was so long as to put an end, in a commercial sense, to the commercial speculation entered upon by the ship-owner and charterer. *Held* (by Keating and Brett, J. J., Bovill, C. J., dissenting), that the charterer was absolved from his contract, and that therefore the

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plaintiff could recover the insurance on freight from the defendant.—*Jackson* v. *Union Marine Insurance Co.*, L. R. 8 C. P. 572.

3. The charterers of a vessel were bound by the charter-party to the following obligation: "Sufficient cash for ship's ordinary disbursements to be advanced the master against freight, subject to interest, insurance, and commission, and the master to indorse the amount so advanced upon his bills of lading." The charterers failed to insure their advance, and the vessel was lost. *Held*, that the charterers had no claim against the owners for repayment of their advance.—*Watson* v. *Shankland*, L. R. 2 H. L. Sc. 304.

See Custom; Freight.

Class.—*See* Vested Interest.

Codicil.—*See* Will.

Common Carrier.—*See* Negligence.

Complicity.—*See* Extradition.

Construction.—*See* Charter-party, 1.

Contract.

1. The engineer of a railway company prepared specifications of the works to be executed on a proposed railway, and the plaintiffs offered to construct the railway for a sum equal to the total of the prices at which the plaintiffs fixed the items in said specifications. A contract under seal was then entered into between the company and the plaintiffs, wherein the latter agreed to compleet said railway for said sum. *Held*, that the plaintiffs could not, under the circumstances, maintain a claim against the company on the ground that the work to be done was understated in said specifications.—*Sharpe* v. *San Paulo Railway Co.*, L. R. 8 Ch. 597.

2. The defendant sold the plaintiff his news-agency business for a sum, part of which was to be contingent upon the profits of the business for the ensuing two and one-half years. The defendant also agreed to superintend the plaintiff's business and obey his orders. Within the first year the plaintiff agreed with R. to discontinue his news business, transferring to R. such contracts and business as R. should elect to continue. The plaintiff then directed the defendant to discontinue sending news, and applied for an injunction. *Held*, that the plaintiff, having broken his implied covenant to carry on the business, was not entitled to an injunction to restrain the defendant breaking any other portion of the agreement.—*Telegraph Despatch and Intelligence Co.* v. *McLean*, L. R. 8 Ch. 658.

3. The plaintiff offered at B. to buy cotton, and the defendant accepted the offer at L., the cotton to be delivered at L. The plaintiff brought suit at B. for breach of contract. By statute an action can be brought in the district where the cause of action wholly or in part arose. *Held*, that the offer at B. was part of the cause of action, and that the suit was properly brought at B.—*Green* v. *Beach*, L. R. 8 Ex. 208.

Corporation.—*See* Bills and Notes, 1.

Costs.

Where an attorney brought an action without the authority of the plaintiff, the plaintiff was held entitled to have the proceedings stayed without payment of costs.—*Reynolds* v. *Howell*, L. R. 8 Q. B. 398.

Covenant.

The directors of the T. railway leased from the owners of the B. dock certain land adjoining the dock, to be used for the purpose of shipping goods from and into vessels entering the dock; and they covenanted that they would procure, so far as they should be able, all merchandise conveyed upon or along the said railway, or any part or branch thereof, for the purpose of being brought to the sea-coast for shipment, to be shipped into vessels in said dock, and would pay certain dues upon such merchandise; and that when any merchandise which should be conveyed upon or along the said railway, or any part or branch thereof, should be shipped into or out of any vessel in any dock other than the B. dock, they would pay the same dues that would have been payable on such merchandise if shipped into or out of a vessel in said B. dock. After this lease a company was authorized to construct certain docks and a line of railway thereto, and said T. railway was empowered to lease all the company's works, by Act of Parliament. The directors of the T. railway accordingly leased such works, and shipped goods from the company's docks and carried them over the leased line of railway, and abandoned the use of the B. dock. *Held*, that said directors had not broken their covenants; and that there were no dues payable in respect of goods shipped from or into said company's docks.—*Directors of the Taff Vale Railway Co.* v. *Macnabb*, L. R. 6 H. L. 169.

See Contract, 2; Lease, 1, 2.

Cul-de-Sac.—*See* Street.

Cy Pres.

Charitable trusts created in the seventeenth and eighteenth centuries in favor of poor prisoners in London, failed in consequence of the abolition of debtors' prisons. *Held*, that the trust funds could not be applied towards the establishment of an industrial school for children of persons convicted of crime and undergoing sentence.—*In re Prison Charities*, L. R. 16 Eq. 129.

Damages.

1. A manufacturer of iron contracted to sell 150 tons of iron to the plaintiff, delivery to be twenty tons per month. Deliveries were not duly made, and the plaintiff partly supplied the deficiency by buying iron in the market. The seller filed a petition in bankruptcy, and the purchaser claimed to prove the difference between the contract price of the whole amount of iron undelivered and the market-price at the time of filing the petition. The value of iron had greatly risen. *Held*, that the purchaser could only prove for the differences between the contract price and the market-price at the time when the monthly deliveries should have been made.—*Ex parte Llansamlet Tin Plate Co. In re Voss*, L. R. 16 Eq. 155.

2. Declaration stating that defendant had agreed to present certain bills to B. for acceptance, and if, after acceptance, the bills were

not paid, then to return the bills to the plaintiff or pay him the amount of the same; that the bills were presented, accepted, and not paid, but that the defendant had not returned the bills nor paid the amount thereof to the plaintiff. No plea was put in. *Held* (by Keating, Brett, and Grove, J. J.), that the measure of damages was the amount of the bills; (by Bovill, C. J., dissenting), that it was the value of the bills (assessed by the jury at one farthing).—*Deverill* v. *Burnell*, L. R. 8 C. P. 475.

See Annuity; Insurance, 1; Lease.

Debenture.—*See* Bills and Notes, 1.

Debt.—*See* Rent Charge.

Dedication.

By statute, a local board of health was authorized to cause the ditches at the sides of or across public roads to be filled up, and to substitute pipe or other drains alongside or across such roads. Between a public road and the plaintiff's enclosed land there was a strip of land nine feet wide. This strip comprised a fence of posts and rails two feet high, fixed in a strip of greensward one foot wide, on the outer edge of said strip of land; then a ditch five feet wide; then a strip of greensward three feet wide, next to the plaintiff's enclosed estate. There was a similar strip of land with similar posts and rails fronting the estate of the adjoining owner, where no ditch existed. The posts in the strip fronting the plaintiff's land had existed forty years, and had been repaired by the plaintiff from time to time, and occasionally, without the knowledge of the plaintiff, by the surveyor of highways. *Held*, that the said Board had no right to fill up the ditch in said strip of land, or cause the posts and rails to be removed.—*Tutill* v. *West Ham Local Board of Health*, L. R. 8 Q. B. 447.

Deposition.—*See* Interrogatories.

Devise.

A testatrix devised "all that my share and interest in the lands known by the name of D., in the parish of K., now in the occupation of E." There was no residuary devise. Part of the lands known as D. was situated in the parish of L., but formed part of enclosures in the parish of K., and another part was in the occupation of M. at the date of the will and the death of the testatrix. *Held*, that all of said lands passed under the devise.—*Hardwick* v. *Hardwick*, L. R. 16 Eq. 168.

See Vested Interest.

Egypt.—*See* Sovereign Prince.

Election.

By indenture made in 1850, between a husband and wife of the first part, the wife's father of the second part, and four trustees of the third part, and reciting that upon the treaty for the marriage it was agreed that certain stock belonging to the husband, and a reversionary interest belonging to the wife, should be settled upon the trusts thereinafter mentioned, and that the wife's father had agreed to transfer certain shares to said trustees to be settled upon the trusts thereinafter mentioned, it was declared that said trustees should pay the income of the husband's stock, to him for life, and after his decease to his wife for life; and should pay during the joint lives of said husband and wife one moiety of the income of said shares to the husband and the other moiety to the wife, for her separate use, and, after the decease of either, should pay the whole income to the survivor for life; and after the decease of the survivor, should hold all of the above funds upon trusts for the children of the marriage. And it was lastly witnessed that, in pursuance of said agreement, the wife, with the privity of her husband, assigned her said reversionary interest to said trustees, to hold on the same trusts as said shares. In 1865 the marriage was dissolved, the order *nisi* having been made in 1864. In 1871 the said reversionary interest came into possession. *Held*, that the wife must elect between the benefits given her by said settlement and her right to said reversion, free from the settlement; and that if she elected to take against the settlement, she must account for the income received under the settlement from the date of the order *nisi*.—*Codrington* v. *Lindsay*, L. R. 8 Ch. 578.

Equity.—*See* Affidavit of Documents; Foreign Judgment; Injunction.

Erasure.—*See* Will, 4.

Estoppel.—*See* Bills and Notes, 2; Lease, 1.

Evidence.—*See* Annuity; Interrogatories; Negligence; Will, 4.

Executors and Administrators.

An executor employed the solicitor who had drawn the will of the testatrix to prove the will, and to settle a claim against the estate. The solicitor wrote to the executor that the claim could be settled by paying a certain sum, which the executor thereupon sent the solicitor. Five months later the executor discovered that said money had been misappropriated by the solicitor. *Held*, that, under the circumstances, the executor should not be charged with the loss.—*In re Bird. Oriental Commercial Bank* v. *Savin*, L. R. 16 Eq. 203.

See Pleading.

Extradition.

England is, by treaty with Belgium, bound to give up persons accused of certain crimes, provided the particular crime charged is included in the Extradition Act. Among such crimes are "crimes by bankruptcy against bankruptcy law." *Held*, that the treaty did not extend to persons guilty of complicity in fraudulent bankruptcy.—*In re Counhaye*, L. R. 8 Q. B. 410.

Foreclosure.—*See* Mortgage.

Foreign Judgment.

A bill in equity, praying an injunction to restrain a suit upon a foreign judgment alleged to have been obtained by fraud, was refused, on the ground that fraud was a good defence at law to such a judgment.—*Ochsenbein* v. *Papelier*, L. R. 8 Ch. 695.

DIGEST OF ENGLISH LAW REPORTS.

FOREIGN PRINCIPAL.—*See* PRINCIPAL AND AGENT.

FRANCHISE.—*See* LEASE.

FRAUDS, STATUTE OF.

The plaintiff alleged that he had assigned to the defendant an agreement for the lease of a shop and stables, with the understanding that the defendant should hold the stables in trust for the plaintiff. *Held*, that the Statute of Frauds had no application to the case, and that the defendant was a trustee of the stables for the plaintiff.—*Booth* v. *Turle*, L. R. 16 Eq. 182.

FREIGHT.

By charter-party a vessel was to proceed to Riga, there be provided with a full cargo, and then proceed to London and deliver the same, on being paid freight as follows: a lump sum of £315. There was the usual exception of sea risks; and the freight was to be paid half on arrival and the remainder on the right delivery of the cargo. A cargo was loaded and part lost by sea risk. *Held*, that shipowner was entitled to the whole of said £315.—*Robinson* v. *Knights*, L. R. 8 C. P. 465; *Merchant Shipping Co.* v. *Armitage*, L. R. 8 C. P. 469 (2).

See CHARTY-PARTY, 2, 3.

GENERAL AVERAGE.

Bark was loaded on a general ship "average, if any, to be adjusted according to British custom." A hole was cut in the vessel for the purpose of extinguishing a fire which broke out in the hold, and the water which came in destroyed said bark. By custom of British average adjusters, such a loss is not a general average loss. *Held*, that the owner of the bark was not entitled to general average contribution.—*Stewart* v. *West India and Pacific Steamship Co.*, L. R. 8 Q. B. (Ex. Ch.) 362.

GUARDIAN—*See* BELIGIOUS EDUCATION.

HOTCHPOT.—*See* LEGACY, 1.

HUSBAND AND WIFE.—*See* ELECTION.

ILLEGITIMATE CHILDREN.—*See* LEGACY, 3.

IMPLIED CONTRACT.—*See* SALE.

INJUNCTION.

An interim injunction to restrain a sale expected to take place immediately was granted on motion, and before bill filed, on the plaintiff giving an undertaking to file a bill and affidavit in the course of the day.—*Thorneloe* v. *Skoines*, L. R. 16 Eq. 126.

See CONTRACT, 2; THEATRICAL ENGAGEMENT.

INQUSITION.—*See* TRUST, 3.

INSANITY.

Discussion as to what degree of repulsion of a parent from his child amounts to such mental delusion as will justify setting aside a will made under the influence of such repulsion.—*Boughton* v. *Knight*, L. R. 3 P. & D. 64. (And see case as reported *infra*.)

See LUNACY; TRUST, 3.

INSURANCE.

1. The plaintiff effected an insurance "on 1711 packages teas" by the "E.," from New York to London, valued at $31,000, and against the usual perils, "and all losses and misfortunes that shall come to the hurt, detriment, or damage of the said goods or any part thereof, occasioned by sea perils." There was a special warranty, as follows: "warranted by the assured free from damage or injury from dampness, change of flavor, or being spotted, discolored, musty, or mouldy, except caused by actual contact of sea-water with the articles damaged, occasioned by sea perils. In case of loss to hardware, the loss shall be ascertained by a separation and sale of the portion only of the contents of the packages so damaged, and not otherwise; and the same practice shall obtain as to all other merchandise, as far as practicable." 449 packages of the plaintiff's teas were injured by salt water. Teas are usually sold in the order of the consecutive numbers marked on the packages, and if the numbers are broken by some being omitted, or if some packages are damaged, a suspicion is created that the other packages may be affected, and such packages consequently, though sound, bring less prices than if no packages were damaged. Consequently the plaintiff's remaining 1262 packages brought less than they would if the 449 packages had not been damaged. *Held*, that the plaintiff could not recover from the insurance company for the loss on said 1262 packages.—*Cator* v. *Great Western Insurance Co. of New York*, L. R. 8 C. P. 552.

2. A vessel was insured against fire for a certain period in the Victoria Dock, with liberty to go to a dry dock. The vessel removed part of her paddle-wheels in the Victoria Dock, as was necessary in order to enable her to enter the dry dock. She entered the dry dock, was repaired, and then moored a little farther up the Thames, where she remained ten days, for the purpose of having her paddle-wheels replaced before returning to the Victoria Dock, and while so moored was burned. It was usual for steamers to remove their paddles before entering a dry dock, and said ten days was not an unreasonable time for replacing the paddle-wheels. *Held*, that the insurers were not liable for said loss.—*Pearson* v. *Commercial Union Insurance Co.*, L. R. 8 C. P. (Ex. Ch.) 548; s. c. 15 C. B. N. S. 304; 33 L. J, 85.

See ANNUITY; CHARTER-PARTY, 2.

INTERNATIONAL LAW.—*See* SOVEREIGN PRINCE.

INTERROGATORIES.

The court disallowed interrogatories upon a commission to take testimony abroad tending to discredit the witness, as being likely to deter the witness from testifying.—*Stocks* v. *Ellis*, L. R. 8 Q. B. 454.

See LIBEL.

JUDGMENT.—*See* FOREIGN JUDGMENT; REPLEVIN.

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Jurisdiction.—*See* Contract, 3; Sovereign

Landlord and Tenant.—*See* Lease.

Law, Mistake of.—*See* Bankruptcy, 2.

Lease.

1. A lessor leased a dwelling-house, together with all lights thereto belonging or therewith used and enjoyed. The lessor, at the time of making the lease, held a four-year lease of the adjoining estate, and subsequently purchased the reversion of the estate. The lessor, more than four years from the time the lease was made, but before its termination, began to build a new building upon his estate, in such a manner as would interfere with the light of the house he had leased. Injunction to restrain lessor from so building refused. *Booth* v. *Alcock*, L. R. 8 Ch. 663.

2. The defendant let a house, with an agreement to put the premises in repair, and the lessee covenanted to keep the premises in repair. The iron covering of the shoot leading into the coal-cellar was, at the time of the demise, out of repair, so as to be dangerous. After the demise, and while the defendant's workmen were still executing said repairs, the plaintiff stepped upon said covering and was injured by its giving way. *Held*, that the defendant was not liable.—*Pretty* v. *Bickmore*, L. R. 8 C. P. 401.

3. A lease was made of "all that piece or parcel of woodland situate in B., and all that close called W., and all that warren of conies, with all and singular the rights, members, and appurtenances whatsoever in B., and that lodge or house thereupon built, commonly called B. lodge; and also all that warren of conies, with all and singular the rights, members, and appurtenances whatsoever in R., both which said warrens are known by the name of the B. warren, and extend themselves over the wastes of B., F., &c. *Held*, that, by the lease, the soil did not pass, but only a right to the conies and whatever was fairly incident to, or necessary for, the preserving and making profit of, them.—*Earl Beauchamp* v. *Winn*, L. R. 6 H. L. 223; s. c. L. R. 4 Ch. 562; 4 Am. Law Rev. 289.

See Covenant.

Legacy.

1. A testator gave his property equally among his daughters, directing F., one of them, to bring an estate she owned into hotchpot. After the date of the will, said estate was, by the advice of the testator, settled upon J. for life, remainder to her husband for life, remainder as J. should appoint among her children. The trustees sold the estate and held the proceeds upon the same trusts. *Held*, that said proceeds must be brought into account in respect of J.'s share. *Middleton* v. *Windross*, L. R. 16 Eq, 212.

2. A testator gave £5000 to trustees in trust, to invest and to apply the income to and for the education of the testator's nephew, until the nephew should attain the age of twenty-four, and when he attained that age to pay him said principal sum: in case the nephew should die under the age of twenty-four, the trustees to hold said principal upon trust for R. The nephew died under twenty-four, and, at the time of his death, said trustees held an accumulation of income. *Held*, that the legacy to the nephew was vested at the death of testator, liable to be divested in case the nephew should not attain twenty-four, and that the nephew's personal representative, and not R. or the testator's residuary legatee, was entitled to said accumulation of income.—*In re Peek's Trusts*, L. R. 16 Eq. 221.

3. A testator gave his personal estate to trustees, to hold in trust for his daughter for life, and after her decease to transfer the principal equally among the children of his daughter, whether by her present putative husband or by any other person whom she might marry. But, in case his daughter should die, leaving no issue, then over. For several years prior to, and at the date of the will, the daughter had been living with a man, whom she subsequently married, as his reputed wife, and at the date of the will had one son by her reputed husband, who was believed by the testator to be illegitimate. Said son was born in 1831, and his mother, who was sixty-seven years of age, and whose husband had died, petitioned with her son to have said principal paid to them jointly. *Held*, that the son had a vested remainder after his mother's life estate, and that said principal should be paid to the petitioners.—*In re Brown's Trust*, L. R. 16 Eq. 239.

See Vested Interest.

Letter.—*See* Privileged Communications.

Libel.

Action for libel in charging the plaintiff with sending vessels to sea over-loaded, over-insured, and under-manned. Plea, that the several words and matters concerning the plaintiff were true. Particulars were offered with the plea. *Held*, that such an answer was more convenient than a special plea of justification, and allowable. The defendant being ordered to deliver to the plaintiff particulars stating the substance and the dates of the matter relied on, the court refused to allow the defendant to administer interrogatories to the plaintiff for the purpose of enabling the defendant to comply with said order.—*Gourley* v. *Plimsoll*, L. R., 8 C. P. 362.

Light.—*See* Lease, 1.

Limitations, Statute of.

By statute, any person building beyond the general line of buildings may be summoned before a justice, who may order the demolition of such building; and no person shall be liable for the payment of any penalty or forfeiture under said statute for an offence cognizable before a justice unless complaint is made within six months from the discovery of such offence. *Held*, that the above limitation clause did not apply to the case of building beyond the general line of buildings.—*Vestry of Bermondsey* v. *Johnson*, L. R. 8 C. P. 441.

MARRIED WOMAN.—*See* ELECTION.

MASTER.—*See* BOTTOMRY BOND.

MORTGAGE.

On a bill by an equitable mortgagee, the court will direct a foreclosure, not a sale.—*James* v. *James*, L. R. 16 Eq. 153.

See REPLEVIN; TRUST, 4.

MOTION.

By statute, a judge, "upon the trial of any issue," may grant leave to move to enter a non-suit, &c. At a trial, which took place on Thursday, the judge refused such leave, but reconsidered the matter, and granted leave on the following Monday. *Held*, (by BOVILL, C. J., KEATING and GROVE, JJ.; BRETT, J., dissenting), that said leave was not granted upon the trial of the issue.—*Folkard* v. *Metropolitan Railway Co.*, L. R. 8 C. P. 470.

NEGLIGENCE.

A passenger in an omnibus was injured by a blow of the hoof one of the horses, who kicked through the front of the omnibus. There was no evidence that the horse was vicious, or a kicker, but two marks, as of kicks, were found beside the hole made by the above kick. It was shown that the consequences of kicking might have been obviated by a kicking strap. *Held*, that there was evidence of negligence on the part of the omnibus company, to go the jury.—*Simson* v. *London General Omnibus Co.*, L. R. 8 C. P. 390.

NEW TRIAL.

On a trial as to the testamentary capacity of a testatrix, the jury disagreed. On a second trial the jury found for the plaintiff, and an application for a new trial was refused. The plaintiff and certain other persons testified at each trial, and subsequently the plaintiff was found guilty of perjury at the latter trial. On the trial for perjury the above plaintiff could not testify, and he was convicted upon the testimony of said other persons who had testified in the first trials. An application for a new trial, made after the plaintiff's conviction for perjury, was refused.—*Davies* v. *Reynolds*, L. R. 3 P. & D. 90.

NUISANCE.—*See* LEASE, 2; WAY.

OBSTRUCTION.—*See* WAY.

PARTNERSHIP.—*See* BILLS AND NOTES, 2; PRINCIPAL AND AGENT, 3.

PATENT.

Two applications for the same patent were filed July 20 and July 23, respectively. The patent applied for July 23 was first sealed. *Held*, that under 15 & 16 Vict. c. 83, § 24, the patents took effect upon the days on which they were applied for.—*Saxby* v. *Hennett*, L. R. 8 Ex. 210.

PENALTY.—*See* SALE.

PERIL OF THE SEAS.—*See* FREIGHT.

PERJURY.—*See* NEW TRIAL.

PLEADING.

A bill was filed by a creditor for administration of a testator's estate, alleging that one of the defendants, who was named executor, was a debtor to the estate, and that his co-executor was insolvent and did not intend to take steps to secure the debt, and that said defendant, though he had not proved the will, had not renounced probate. The defendant answered, not admitting the debt. The plaintiff amended by introducing charges, showing advances from the testator to the defendant. The defendant then pleaded that he had renounced probate since his answer, and before the plaintiff had amended. *Held*, that the plea could not be sustained.—*Morley* v. *White*, L. R. 8 Ch. 731.

See CHARTER-PATTY, 1; LIBEL.

POWER.—*See* TRUST, 3.

PRACTICE.—*See* COSTS; LIBEL.

PRESUMPTION.—*See* WILL, 2.

PRINCIPAL AND AGENT.

1. Iron was being unloaded from a cart for the purpose of being carried on board a ship. The defendant's foreman not being satisfied with the manner of unloading, got into the cart and threw out part of the iron and injured the plaintiff. It was the duty of the defendant, a stevedore, to carry the iron, after it was thrown from the cart, to the ship. *Held* (by GROVE and DENMAN, JJ., BRETT, J., dissenting), that it was a question for the jury whether the foreman was acting within the scope of his employment.—*Burns* v. *Poulsom*, L. R. 8 C. P. 563.

2. A foreigner employed brokers to buy car-wheels for him. The defendant, in the presence of the foreigner, contracted to furnish wheels to the *brokers*, and subsequently failed to perform the contract. *Held*, that under the circumstances of the case the plaintiff, being a foreign principal, could neither sue nor be sued on said contract.—*Elbinger Actien-Gesellschaft* v. *Claye*, L. R. 8 Q. B. 313

3. By agreement between a London firm and a Rangoon firm, the former firm was to purchase goods "on joint account," charge two per cent. commission, and send the goods to the Rangoon firm. The plaintiff, with no knowledge of this agreement, furnished goods to the London firm, which were exported to the Rangoon firm under the above agreement. *Held*, that the foreign firm at Rangoon was not liable as an undisclosed principal to the plaintiff for the price of the said goods.—*Hutton v. Bulloch*, L. R. 8 Q. B. 331.

See BOTTOMRY BOND; BROKER.

PRIVILEGED COMMUNICATIONS.

Where one defendant in a suit, being a solicitor, acted as agent of the solicitor on the record to collect evidence in the suit, the letters between him and his co-defendant were held to be privileged communications.—*Hamilton* v. *Nott*, L. R. 16 Eq. 112.

RAILWAY.—*See* STREET.

Digest of English Law Reports.

Real Action.—*See* Rent-charge.

Rrceiver.—*See* Trustee, 1.

Religious Education.

A Catholic, being about to marry a Protestant woman, agreed verbally that the boys of the marriage should be brought up as Catholics, and the girls as Protestants. There was a daughter born, who was baptized a Protestant, with the knowledge of the father, who was, however, absent and ill, and who shortly before his death made a will directing his children to be brought up Catholics, and appointing his brother, a Catholic, their guardian. The daughter was brought up by the mother's family, who had no knowledge of said will, as Protestant until she was nine years old, when said guardian first claimed her. *Held*, that the father's right to have the child brought up as Catholic had been abandoned, and that said guardian would be restrained from interfering with the custody or education of the child.—*Andrews* v. *Salt*, L. R. 8 Ch. 622.

Rent-charge.

Declaration that the defendant, being seized in fee of certain messuages, granted them to C., subject to a yearly rent-charge, which C. covenanted to pay; and that subsequently all the estate of C. became vested in the defendant, who did not pay said rent-charge. *Held*, that said rent-charge being in fee, debt would not lie at common law until the fee determined, and that the plaintiff would have been driven to a real action; but that real actions having been abolished by statute, an action of debt would lie.—*Thomas* v. *Sylvester*, L. R. 8 Q. B. 368.

Repairs.—*See* Lease, 2.

Replevin.

A mortgagor leased the mortgaged premises to the plaintiff. The mortgage gave the mortgagee power to distrain the goods of the mortgagor, in a certain event; and such event happening, the mortgagee by mistake distrained the plaintiff's goods. The plaintiff replevied and recovered the expenses of the replevin bond, and then brought trespass for further damages to said goods, and for trespass to the land. *Held*, that the judgment in replevin was a bar to the action for trespass to the goods; otherwise as to the action for trespass to the land; but that the defendant not having recognized the plaintiff as a tenant, was entitled to judgment in such action on a plea of not possessed.—*Gibbs* v. *Cruikshank*, L. R. 8 C. P. 454.

Revocation.—*See* Will, 4, 5.

Sale.

By 35 & 36 Vict. c. 74, sec. 2, any person who shall sell as unadulterated any article of food or drink which is adulterated, is subjected to a penalty. The respondent, a butter dealer, sold an inspector a pound of adulterated butter, on being asked for "a pound of butter at 7*d*." *Held*, that there was an implied representation by the respondent that the article he sold was unadulterated butter.—*Fitzpatrick* v. *Kelly*, L. R. 8 Q. B. 337.

See Mortgage.

Seal.—*See* Bills and Notes, 1.

Settlement.—*See* Election.

Sovereign Prince.

A cause was instituted on behalf of the owner, master, crew, and passengers of the *Batavier* against the steamship *Charkieh* and her freight for damages arising out of a collision. An appearance was entered under protest for the Khedive of Egypt, and a petition was filed stating that the *Charkieh* was the property of the Khedive, as reigning sovereign of the state of Egypt, and was a public vessel of the government and semi-sovereign state of Egypt, and praying the judge to declare that the court had no jurisdiction to entertain the suit. It appeared that the vessel was sent to England to be repaired, and had brought a cargo and advertised to carry one back, for the sake of lessening expense; that she was chartered to an English subject for her return voyage to Alexandria; that she was entered at the custom-house like an ordinary merchant vessel, and that all freights and passage money earned by her were received by the Egyptian minister of the interior as part of the public revenues of Egypt. *Held*, on the facts that the Khedive had failed to establish that he was entitled to the privileges of a soverign prince; that if he were entitled to such privilege, it would not oust the jurisdiction of the court in this action; and that if such privilege existed, it had been waived with reference to the *Charkieh* by the action of the Khedive in engaging her in traffic—*The Charkieh*, L. R. 4 Ad. & Ec. 59.

Specification.—*See* Contract, 1.

Statute.—*See* Contract, 3; Motion; Sale; Vote.

Stock Exchange.—*See* Broker.

Stocks.—*See* Trust, 4.

Street.

A *cul-de-sac*, into which the public has been allowed to enter for twenty years, is dedicated to the public, and is a public highway. A railway constructing its line under such *cul-de-sac* is not to pay compensation to the abuttors.—*Souch* v. *East London Railway Co.*, L. R. 16 Eq. 108.

Theatrical Engagement.

An actor, who had contracted to act at the plaintiff's theatre during the season of nine months, was restrained by injunction from acting at any place other than the plaintiff's theatre.—*Montague* v. *Flockton*, L. R. 16 Eq. 189.

Tillage.

In case any part of certain land was converted into "tillage," a tithe rent-charge became due. The owner of the land built a house thereon, and converted a part into garden ground and the remainder into orchard.

Held, that the land was not converted into tillage.—*Dudman* v. *Vigar*, L. R. 6 H. L. 212; s. c. L. R. 7 C. P. (Ex. Ch.) 72; L. R. 6 C. P. 470; 6 Am. Law Rev. 304. 699.

Tithe.—*See* Tillage.

Treaty.—*See* Extradition.

Trespass.—*See* Dedication; Replevin.

Trust.

1. If a trustee will not take proper steps to enforce a claim against a debtor to the trust fund, the remedy of the *cestui qui trust* is to file a bill against the trustee for the execution of the trust, or for the realization of the trust fund, and then to obtain the proper order for using the trustee's name, or for obtaining a receiver to use the trustee's name.—James, L. J., in *Sharpe* v. *San Paulo Railway Co.*, L. R. Ch. 597.

2. Before executing a deed of assignment of his property, a debtor had deposited with his solicitor a bill of exchange as security for charges. At the time the bill became due nothing was due the solicitor, who, however, retained the bill and brought suit upon it, but recovered nothing, in consequence of the acceptor's bankruptcy. The creditors charged the trustee of the debtor with a breach of trust in leaving the bill with the solicitor, instead of claiming it and making the best terms possible with the acceptor. *Held*, that there was no breach of trust.—*Ex parte Ogle. In re Pilling*, L. R. 8 Ch. 711.

3. Three trustees had power to appoint their successors in case any of their number became unable to act. One of the trustees became of unsound mind, though he was not found so by inquisition, the other trustees appointed a new trustee in his place. *Held*, that the power was properly exercised.—*In re East*, L. R. 8 Ch. 735.

4. H. held, as trustee for the defendants, certain certificates of stock in a railway company as registered proprietor thereof. Such stock was issued to registered proprietors, and it was never noticed on the face of the certificates that the proprietor was a trustee. H. obtained advances from R. on deposit of the certificates as security, with a written agreement to execute a valid mortgage and transfer of the stock when requested. The defendants discovered the fraud of H., and gave R. notice that H. had been trustee for them. R. thereupon obtained a transfer of the certificates to himself. *Held*, that under the circumstances R. was entitled to the stock.—*Regina* v. *Shropshire Union Co.*, L. R. 8 Q. B. (Ex. Ch.) 421; s. c. L. R. 3. Q. B. 704.

See Executors and Administrators; Frauds, Statute of.

Vested Interest.

A testatrix gave a sum of money, payable at the decease of A., to the brothers and sisters of S., to be equally divided among them, share and share alke, the said shares to be vested interests on the majority or marriage of each; and the income, in the event of A.'s death, in the meantime to be paid towards the maintenance of said legatees. There was no gift over. Two of the legatees survived A., and died under age and unmarried. *Held*, that the share of said two legatees passed to their legal personal representatives.—*Simpson* v. *Peach*, L. R. 16 Eq. 208.

See Legacy, 2.

Vote.

By statute, a person rated in respect of distinct premises in two or more wards shall be entitled to vote in such of said wards as he shall select, but not in more than one. A burgess on the roll for two wards voted first in one ward and immediately after in the other ward. *Held*, that by voting in the first ward the burgess made his selection, and that the fact of his voting afterward in another ward could not vitiate his previous vote.—*Regina* v. *Harrald*, L. R. 8 Q. B. 418.

Waiver. — *See* Arbitration; Sovereign Prince.

Warranty. — *See* Charter-party, 1.

Way.

P., the owner of an inn with a passage-way to the same from the street, agreed with M., an abuttor, to change the direction of the passage-way. M. accordingly conveyed to P. a small piece of land between said inn and the new passage-way, and granted to P., his heirs and assigns, "rights of way and passage at all times and for all purposes over a passage intended to run between the land conveyed and said street." The plaintiff, the lessee of the inn, brought a bill against M. and his tenants, alleging that some of the defendants, but which of them the plaintiff could not discover, blocked up the passage with carts and machinery for loading and unloading goods. *Held*, that the right of way was not a right in gross, but a right appurtenant, and passed to the plaintiff; that it was not necessary for the plaintiff to show what share each defendant had in causing the obstructions, and that an injunction should be granted.—*Thorpe* v. *Brumfitt*, L. R. 8 Ch. 650.

See Dedication.

Will.

1. A testator, having made a will and codicil, made another codicil, in which he stated his desire to cancel said will, and that a previous will should stand as his last will. The only previous instrument of the testator was a settlement on his marriage. *Held*, that said will was revoked whether the settlement could be incorporated in the probate or nor.—*In the Goods of Gentry*, L. R. 3 P. & D. 80.

2. A testator's will had been originally engrossed on fifteen sheets of paper by a law stationer, with blanks for legatees and legacies, which were filled up by the testator. The fourth sheet had been removed, and replaced by one in the handwriting of the testator, but the original had been preserved. The number of the sheet incorporated in the will had been altered from seventeen to four. On the sixteenth sheet a codicil had been written by the testator, and on the eighteenth

a schedule of property. The sheets of the will were tied together with tape. *Held*, that the presumption that the sheets bound together were so bound together at the time of the execution and attestation of the will was not rebutted by the facts of the case.—*Rees* v. *Rees*, L. R. 3 P. & D. 80.

3. A testator signed his will in the presence of two witnesses by making a mark thereon. One witness made a mark below the testator's mark, and the second witness then wrote the name of the testator opposite the testator's mark, and the word "witnesss," and the name of the first witness opposite his mark, but did not add his own name. *Held*, that the will was not properly attested.—*In the Goods of Enyon*, L. R. 3 P. & D. 92.

4. After execution of her will, a testatrix erased the name of a legatee and wrote the name of another over the erasure. The court being satisfied that the testatrix intended to revoke the first bequest only in case she had substituted another valid bequest, admitted evidence to show what the erased name was.—*In the Goods of McCabe*, L. R. 3 P. & D. 594.

5. A testatrix re-wrote the first part of her will on a separate piece of paper, and then tore off the first part of her old will and burnt it. She then rolled up the re-written portion with the remainder of her old will, which contained her own and the witnesses' signatures. *Held*, that as it appeared that the testatrix had intended to destroy a portion of her old will only in case a new portion was substituted therefor, probate must be granted of the portion of the old will which remained, together with the draft of the part destroyed.—*Dancer* v. *Crabb*, L. R. 3 P. & D. 98.

Insanity; New Trial; Vested Interest.

Witness.—*See* Annuity; Will, 3.

Words.

"*Leaving*."—*See* Legacy, 3.

"*Payable*."—*See* Vested Interest.

"*Upon*."—*See* Motion.

"*Vested*."—*See* Vested Interest.

REVIEWS.

Ewart's Index of the Statutes—Second Edition. Toronto: R. Carswell, Law Publisher, &c., 1874.

The first edition of this useful little book had already become a "household word" in lawyers' offices in Toronto, when the second was announced. We welcome this especially, as it seems to prophesy that the time has come when we may expect every few years, as necessity demands, a new edition of an index, which it would now be most inconvenient to be without. The first edition included the statutes, subsequent to consolidation, down to the year 1871. The one before us brings us down to, and inclusive of, the year 1873. The arrangement is a very practical one, which is just what is required for office use. It is simply impossible for any living man to make an index which would be entirely satisfactory to all; but Mr. Ewart has succeeded in so selecting and arranging his headings as to take rank in the highest grade of those who perform the ungrateful task of index-making, whose praise, after all, can only be the relative one of giving very general satisfaction to the large majority of their readers.

Table and Index of the Statutes of the Dominion of Canada and Amendments thereto, and an Index to the Imperial Statutes affecting Canada. By R. J. Wicksteed, Esq., M.A., B.C.L., Barrister and Advocate, Law Department, House of Commons, Canada. Ottawa: McLean, Roger & Co., 1874.

Though of the same class as the book above noticed, it is essentially different in its scope and arrangement and in the nature of the information given. We cannot do better than quote the preface, or rather explanatory notice, which introduces the table and index.

"The subject of each Act is given briefly, after the year of the Reign and chapter, with the name of the Member who introduced the Bill, and the official number or letter under which it was brought in. The date of the Royal Assent is given after the first Act assented to on any day, but is not repeated unless the date changes, so that the assent to Acts as to which no date is mentioned, is to be understood to have been given on the day then last before mentioned. Then follow brief references to the Acts amended by that in question, or amending or affecting it, showing the sections, &c., repealed or amended, and, as far as the necessary degree of brevity admitted, the nature of the amendments. More than this has not been attempted, nor would space permit; further information must be sought in the chapters and sections indicated.

"The index to these Statutes has been made, under each letter of the alphabet, for the Acts of each Session or Volume separately but consecutively, and refers to the Acts as printed in such volume, without noticing the repeals or amendments; so that having found by this index the Act or section dealing with any subject, it will always be advisable to refer to such Act or section in the preceding table, to see whether it has been repealed or amended by any subsequent enactment.

"The Index to Imperial Statutes comprises such only as having been passed with express reference to Canada, or any of the Provinces now composing it, or to the colonies generally, appear to have been wholly or partly in force or unrepealed at the end of the Session of the Parliament of the United Kingdom held in the year 1873, the date to which the table and *Index to the Statutes of Canada* are brought down."

The very name of the author is enough to inspire confidence, he being the son of our old friend, the invaluable and courteous Law Clerk of the House, who in 1856-7, as Law Clerk of the Legislative Assembly of Canada, prepared the Index of the Statutes which bears his name.

The Index before us is prepared as well for the use of members of the Legislature as for the Legal profession, and the necessary consequence is an arrangement of the alphabetical Index which, though novel, is ingeniously devised to give all necessary information to the progressive legislator, whilst at the same time doing as little injury as possible to its convenience as a guide to the practical lawyer.

It is impossible to estimate the comfort these time-saving machines are to the profession. For this reason, if for no other, we trust that both Mr. Wicksteed and Mr. Ewart will, as they ought to, reap a substantial harvest from their labours.

FLOTSAM AND JETSAM.

A Bill has been introduced in the Virginia Senate (which is the case every session), to repeal the law providing for the punishment of citizens of the commonwealth by stripes.

The House Committee of the U. S. Senate have before them the impeachment cases of four Judges: Durell of Louisiana, Busteed of Alabama, Story of Arkansas, and Duvall of Texas.

Lord St. Leonards, the only ex-Chancellor who held successively the Lord Chancellorship of Ireland and England, has reached his ninety-fourth year. He is still in the full possession of his faculties.

In a case before the Master of the Rolls, lately, Mr. Bagshawe, Q.C., referred to a licensed victualler, who had been called as a witness, as "this gentleman." "How long is it since publicans have gained the title of 'gentleman?'" asked his Honour; "since the last general election, I suppose?"

A conversation at the York Assizes—Junior Counsel (cross-examining a polite and venerable witness). "Come, now, was the carpet on the room old or new?" Polite and venerable witness—"Quite new, Sir." J. C. "Come, now, how do you know that?" P. and V. W. "Because it was bright and fresh-looking—*like you, Sir!*" (Jury giggle—Judge wrestles with a smile—Spectators roar—and Junior Counsel wishes he had gone into a bank.)

One can hardly appreciate the "mixed emotions" with which the counsel in a certain important case listened to the following dialogue, between the Judge and Foreman of the Jury, at the close of the Judge's charge:—

Judge—"Is there any point on which the the Jury would like further explanation?"

Foreman—"There are two terms of *law* that have been a good deal used during this trial that I should like to know the meaning of—they are *plaintiff* and *defendant*."

It is not long since we listened to a conversation equally refreshing. A patient and careful Judge, having laboured for half-an-hour to explain a difficult contract to the jury, asks: "Now, if I were to send you to your room, do you think you would understand the matters you have to decide?"

Foreman (promptly)—"We think *not*, my Lord!"

Counsel will take singularly different views of the virtues of witnesses. Dr. Kenealy, with his command of high-sounding epithets, speaks of Bogle, the old Tichborne retainer, as—"one of those negroes described in Paul and Virginia, a man from whose countenance the light of truth beamed." Mr. Hawkins is blind to the 'beams of truth,' and calls this interesting African a "murky satellite." Miss Braine, the governess, who was positive that the defendant, whom she compassionately visited in sickness, is the Sir Roger whom she saw once in 1850, appeared to Dr. Kenealy in the light of a "ministering angel." "If Miss Braine be a ministering angel," exclaims Mr. Hawkins, "God preserve me from ministering angels! If I was to give her a character, I should say that she was all that is execrable and hateful." Captain Brown, whose otherwise spotless reputation is somewhat tarnished by his affectionate recognition of Jean Luie as an old comrade of the Osprey, is from the defendant's point of view "the gallant Captain Brown of the Brazilian Navy." Mr. Hawkins prefers to describe him as "the perjured proprietor of a pudding shop."

LAW SOCIETY OF UPPER CANADA.

Osgoode Hall, Hilary Term, 37th Victoria.

DURING this Term, the following gentlemen were called to the Degree of Barrister-at-Law:

No. 1276. Robert Hamilton Dennistoun.
" 1277. John Henry Metcalf.
" 1278. J. Howatt Bell.
" 1279. William Drummond Hogg.
" 1280. Kenneth McLean.
" 1281. Edward Meek.
" 1282. Edward Harry D. Hall.
" 1283. William McDonnell, Jr.
" 1284. E. Burritt Edwards.
" 1285. A. Elswood Richards.
" 1286. Henry Arthur Reesor.

The above named gentlemen were called in the order in which they entered the Society as Students, and not in the order of merit.

The following gentlemen received Certificates of Fitness:

William Drummond Hogg.
Henry Arthur Reesor.
William G. Murdoch.
J. Howatt Bell.
E. Burritt Edwards.
William McDonnell, Jr.
Albert Edward Richards.
Frank D. Moore.
Edward Meek.
Archibald McKinnon.
George M. Roger.
Mortimer A. Ball.
John MacGregor.

And on Tuesday, the 3rd February, 1874, the following gentlemen were admitted into the Society as Students-at-Law and Articled Clerks:

Graduates.

Edward Poole.
Angus Martius Peterson.
William Macbeth Sutherland.
Colin George Snider (as an Articled Clerk.)
Lafayette Alexander McPherson.
Henry Peter Milligan.
Frank Nicholls Kennin.

Junior Class.

William Beairsto.
William Leigh Walsh.
David Burke Simpson.
Chester Glass.
Thomas P. Galt.
William H. Best.
Alexander H. Leith.
Frederick Case.
John Kelley Dowsley.

Ordered, That the division of candidates for admission on the Books of the Society into three classes be abolished.

That a graduate in the Faculty of Arts in any University in Her Majesty's Dominion, empowered to grant such degrees, shall be entitled to admission upon giving a Term's notice in accordance with the existing rules, and paying the prescribed fees, and presenting to Convocation his diploma or a proper certificate of his having received his degree.

That all other candidates for admission shall pass a satisfactory examination upon the following subjects, namely, (Latin) Horace, Odes Book 3; Virgil, Æneid, Book 6; Cæsar, Commentaries Books 5 and 6; Cicero, Pro Milone. (Mathematics) Arithmetic, Algebra to the end of Quadratic Equations; Euclid, Books 1, 2, and 3. Outlines of Modern Geography, History of England (W. Douglas Hamilton's) English Grammar and Composition.

That Articled Clerks shall pass a preliminary examination upon the following subjects:—Cæsar, Commentaries Books 5 and 6; Arithmetic; Euclid, Books 1, 2, and 3. Outlines of Modern Geography, History of England (W. Douglas Hamilton's) English Grammar and Composition, Elements of Book-keeping.

That the subjects and books for the first Intermediate Examination shall be:—Real Property, Williams; Equity Smith's Manual; Common Law, Smith's Manual; Act respecting the Court of Chancery (C. S. U. C. c. 12), (C. S. U. S. caps. 42 and 44).

That the subjects and books for the second Intermediate Examination be as follows:—Real Property, Leith's Blackstone, Greenwood on the Practice of Conveyancing chapters on Agreements, Sales, Purchases, Leases, Mortgages, and Wills); Equity, Snell's Treatise; Common Law, Broom's Common Law, C. S. U. C. c. 88, Statutes of Canada, 29 Vic. c. 28, Insolvency Act.

That the books for the final examination for students at law, shall be as follows:—

1. For Call.—Blackstone Vol. i., Leake on Contracts, Watkins on Conveyancing, Story's Equity Jurisprudence, Stephen on Pleading, Lewis' Equity Pleading, Dart on Vendors and Purchasers, Taylor on Evidence, Byles on Bills, the Statute Law, the Pleadings and Practice of the Courts.

2. For Call with Honours, in addition to the preceding, —Russell on Crimes, Broom's Legal Maxims, Lindley on Partnership, Fisher on Mortgages, Benjamin on Sales, Jarman on Wills. Von Savigny's Private International Law (Guthrie's Edition), Maine's Ancient Law.

That the subjects for the final examination of Articled Clerks shall be as follows:—Leith's Blackstone, Watkins on Conveyancing (9th ed.), Smith's Mercantile Law Story's Equity Jurisprudence, Leake on Contracts, the Statute Law, the Pleadings and Practice of the Courts.

Candidates for the final examinations are subject to re-examination on the subjects of the Intermediate Examinations. All other requisites for obtaining certificates of fitness and for call are continued.

That the Books for the Scholarship Examinations shal be as follows:—

1*st year*.—Stephen's Blackstone, Vol. i., Stephen on Pleading, Williams on Personal Property, Griffith's Institutes of Equity, C. S. U. S. c. 12, C. S. U. C. c. 43.

2*nd year*.—Williams on Real Property, Best on Evidence, Smith on Contracts, Snell's Treatise on Equity, the Registry Acts.

3*rd year*.—Real Property Statutes relating to Ontario Stephen's Blackstone, Book V., Byles on Bills, Broom's Legal Maxims, Story's Equity Jurisprudence, Fisher on Mortgages, Vol. 1, and Vol. 2, chaps. 10, 11 and 12.

4*th year*.—Smith's Real and Personal Property, Russell on Crimes, Common Law Pleading and Practice, Benjamin on Sales, Dart on Vendors and Purchasers, Lewis' Equity Pleading, Equity Pleading and Practice in this Province.

That no one who has been admitted on the books of the Society as a Student shall be required to pass preliminary examination as an Articled Clerk.

J. HILLYARD CAMERON,
Treasurer.