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This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1895 Excerpt: ...of which discretion may be reviewed by the general term of that court but not by the court of common pleas: Bigelow Co. v. Gray, 14 N. Y. St. Rep. 711. e. The common pleas will not review a discretionary order of the city court, and there is nothing in § 3191 which makes it incumbent upon the court to entertain such appeals: Walsh v. Schulz, 6 Civ. Pro. R. 120; 07 How. 180: Stringfield v. Fields, 7 Civ. Pro. R. 350. By a discretionary order is meant one made by the court below, upon evidence, upon which men of good judgment may fairly differ: Id. /. An order of the general term of the city court of New York reversing an order of that court striking out a portion of an answer as irrelevant and redundant, is not appealable under §3191; such order merely affects a mode of procedure and docs not deprive the plaintiffs of any substantial right or touch the merits of his case: Waters v. Curtis, 13 Daly 179. y. Appeal limited to questions of law.-- Appeals from the marine court to the court of common pleas must be dismissed, where it appears by the return that questions of fact were legitimately before the general terra of the former, and that the evidence was such that the court may have reversed the judgment on the facts: McEteere v. Little, 7 Abb. N. C. 375; 8 Daly 107. The common pleas cannot examine testimony taken at the trial: Id. h. What reviewed.--The power of common pleas on appeal from the marine court is the same as that of the court of appeals on appeal from the supreme court, and the common pleas will not pass upon the evidence further than to see if there was any competent evidence to sustain the judgment: 1 al ley v. I.yddy, 8 Daly 514. Chap. 20. i. Under § 366 of the former Code, it was held that the common pleas on appeal from the m...

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