to limit the time to which an obstinate person may be imprisoned, not because, as we hope we have shewn, that such person ought to be punished, but because the power to compel payment, where means of payment exist, is essentially necessary for the welfare of those classes who obtain credit upon the faith of paying out of their future earnings.

The second clause of Mr. Collier's bill would, in our opinion, operate as a measure of confiscation upon the debts now due to tradesmen on the judgments of the county courts (in some cases amounting to £50, exclusive of costs), or which the creditors have allowed to be incurred, from their knowledge that by law they could compel payment whenever their debtors might possess the means of satisfying them.

By the late Lord Chancellor's direction, we also inquired into the working of the courts as far as regards loan societies, beer scores, and the selling of goods by travelling drapers and such persons.

The questions we circulated and the answers we received we beg leave to enclose, and to recommend, so far as the second of the above subjects is concerned, that in the next session of Parliament a measure should be introduced providing that no debt for beer, consumed on the premises where sold, shall be recoverable except by action commenced within fourteen days from the time of the incurring thereof.

It does not appear to us that any beneficial suggestion can be made with reference to loan societies, and we do not propose any interference with travelling drapers and such persons, because we think that the judges of the courts, by carefully weeding from the accounts of these persons all sums charged for goods supplied to a wife on the credit of her husband not befitting her station, or which he has not sanctioned, can prevent any ill effect which would otherwise arise from this system of trading, and because we think that when so restrained the system is not disadvantageous to the labouring classes.—We have the honour to be, &c., my Lord, your Lordship's obedient servants,

JAMES MANNING.
J. H. KOE.
E. COOKE.
J. WORLLEDGE.
W. FURNER.

SELECTIONS.

JURISPRUDENCE AND RELIEF IN EQUITY.

FALCKE *v.* GRAY (33 L. T. Rep. 297).

The more flattering a bargain is to a purchaser's sense of superior knowledge and good fortune, the more hazardous it becomes in his suit for specific performance of the contract. The plaintiff Mr. Falcke made a capital bargain. A pair of large oriental china jars were the ornament of Mrs. Gray's drawing-room at Gloucester terrace. They had been bequeathed to her by a lady, with the tradition that George the Fourth had once offered 100*l.* for them. In January Mrs. Gray put the house into an agent's hands to be let furnished. Mr. Falcke, who was in search of such a residence, looked through Mrs. Gray's, was struck by the jars, not with any more royal or sentimental adoration, for he had been a dealer in curiosities and old china. Cautious by habit he did not spoil the affair by precipitation. Mrs. Gray was written to and came to town. They met at the house. It was arranged that the plaintiff should have certain articles of the furniture at valuation. The agent's clerk valued the ordinary articles, but, distrusting his connoisseurship in fictiles, suggested Messrs. Watson, of Duke street, the other defendants, as competent valuers. The suggestion was not adopted, and either in a random way, or by the help of some analogies not disclosed, the clerk set down the jars at 25*l.* This did not satisfy Mrs. Gray. He protested he was no judge of such matters. She pressed him for a further opinion. 'Suppose we say 40*l.*' was his amended valuation. Mr. Falcke showed no eagerness; the affair was evidently in excellent train, and he knew very well that 40*l.* was not a reasonable price. So he admitted in the suit; from the evidence in which it also appears that he knew the jars were worth at least 125*l.* Finally an agreement was drawn up by Mrs. Gray's house agents, and signed by Mrs Gray, to the effect that Mr. Falcke should have the option of purchasing the whole or any part of the undermentioned articles at the sums affixed, viz., sideboard 18*l.* 18*s.*, &c., and "two large oriental china jars in drawing-room, 40*l.*" For specific performance of this contract the purchaser filed his bill. But the facts did not rest there. Mrs. Gray, left to her reflections and reminiscenses, had some misgiving, and sent to Messrs. Watson. Whether they were made aware of the contract is not clear on the evidence. They swore that they were not, and Mrs. Gray gave similar evidence. Having arrived and inspected the jars, they at once offered 200*l.* for them. Mrs Gray, feeling some compunction—either on account of her deceased friend or her departed purchaser—asked whether she should be "acting like a lady" to sell the jars. She would, Messrs. Watson said, and drew a cheque for the 200*l.* They inquired, "who had expressed a wish to purchase the jars?" She said the plaintiff had; they replied that they knew him, and that he was a dealer in the same line as themselves. After which they took the jars away.

Inadequacy of price was an obvious fact in the case. The plaintiff's counsel admitted it, but contended that inadequacy was not of itself a sufficient ground for refusing specific performance.

Kindersley, V.C., who heard the cause. laid down, on the contrary, that the general rule as to hard bargains is, that the court shall not decree specific performance in such cases, on the ground that, after all, specific performance is a matter of discretion, and is to be used to advance justice. The rule thus broadly enunciated solicits explanation if it be compared with the following passage of Lord Chancellor Hart's judgment in *Sullivan* v. *Jacob*, 1 Moll. 477, cited in the text of the Vendors and Purchasers:—

"A court of equity does not affect to weigh the actual value, nor to insist upon the equivalent in contracts, when each party has equal competence. When undue advantage is taken it will not enforce that; but it cannot listen to one party saying that another man would give him more money or better terms than he agreed to take. I think this was an improvident contract; but improvidence or inadequacy do not determine a court of equity against decreeing specific performance."

The apparent conflict between these positions seems to be scarcely disposed of by the authorities to which the Vice-Chancellor afterwards refers. The cases, he remarks, are not very numerous, where inadequacy of price alone has come into consideration. Those referred to by him are *Kien* v. *Stukeley*, *Vaughan* v. *Thomas*, *Heathcote* v. *Paignon & Day* v. *Newman*.

In *Kien* v. *Stukeley*, 1 Bro. P. C. 191 (1722), at a time when lands and everything else were raised to an extravagant price by the South Sea bubble, the appellant expecting then to sell a portion of that stock at 1000*l.* per cent., agreed for the purchase of some lands at a price which was alleged to be unreasonably high. The case was not decided on the point of inadequacy, but we read in Gilbert's report of it, that "This was very doubtful among the Lords, for on the one side it was argued, that if a bargain and sale was unconscionable, the person who had got such a bargain was not to demand a performance of it in a court of equity, but he could only demand damages for not performing the bargain; for the court of equity was only to assist in carrying conscionable bargains into execution, and where they did not find them fit to be carried into execution, the court of equity was to leave them to law. On the other side it was said, that a man was obliged in conscience to perform a bargain, though it was a hard one; and when he