of this judgment, but subsequently abandoned thir appeal against the portion relating to the inquiry as to damages, and claimed reimbursement of the expenses incurred under the consent order. The appeal was dismissed, and the defendants then appealed to the House of Lords, who varied the judgment by allowing the claim for expenses, but affirmed it in other respects. No application was made to the House of Lords to vary the terms of the inquiry as to damages, which therefore remained as part of the judgment. The chief clerk allowed damages on the footing of there having been a detention of all the cargoes, commencing on their arrival in England. This Kay, J., affirmed, and from his decision the defendants appealed, on the ground that the effect of the decision of the House of Lords was that there had been no wrongful detention, and that nominal damages only should have been given. Both members of the Court of Appeal who affirmed the decision of Kay, J., were constrained to admit that the defendants had put them in a position of difficulty (and as Fry, L.J., termed it, "a cruel difficulty"), by neglecting to appeal from that part of the judgment directing the inquiry as to damages; but as that part of the judgment remained in force and had been affirmed by the House of Lords, they were of opinion that the plaintiffs under the judgment were entitled to the damages assessed. All the members of the Court, however, were agreed that, under Lord Cairns' Act (R.S. O., c. 44, s. 58 (10)), enabling the Court to award damages in lieu of an injunction, the Court has no power to give damages in cases where the injunction is granted before any damages have been sustained, but merely to restrain a threatened injury. Bowen, L.J., who humbly describes himself as "a proselyte at the gate in matters of equity," considered that the certificate of the chief clerk was wrong, because it lumped together all the cargoes, two only having arrived before the consent order was made; as to the others, he thought that it would be consistent with the judgment as it stood to have found only nominal damages, as the possession taken of them by the defendants under the consent order had been declared by the House of Lords not to be wrongful.

COVENANT NOT TO CARRY ON PARTICULAR TRADE.

Stuart v. *Diplock*, 43 Chy.D., 343, was an action to restrain the defendants from committing a breach of a covenant to carry on a particular trade. The covenant was not to carry on the trade of ladies' outfitting. All that was proved was, that the defendants, who were hosiers, sold four classes of articles, the sale of which was an essential part of the business of ladies' outfitters, but which were also commonly sold by hosiers. Kekewich, J., considered this was a breach of the covenant, but on appeal the Court of Appeal (Cotton, Bowen, and Fry, L.JJ.) were of opinion that the *bona fide* sale of certain articles of hosiery which, though an essential and important part, but not nearly the whole of ladies' outfitting, was not a breach of the covenant, there being no covenant not to carry on any part of the business of ladies' outfitters. The covenant in question was not made directly with the plaintiffs, but with the assigns of their lessors, and a question was raised, but not decided, whether in any event the defendants were liable to the plaintiffs for breach of the covenant.