

RECENT ENGLISH DECISIONS.

of the goods, which were accepted after the dissolution by W. in the partnership name. The plaintiff sued W. in the partnership name on the bills, and recovered judgment, which was not satisfied. The plaintiffs then brought the present action against the defendant for the price of the goods; but it was held by Field and Manisty, JJ. (affirming Mathew, J.), that the judgment against one joint contractor on the bill given by him alone for the joint debt, though unsatisfied, was a bar to an action against the other joint contractor on the original contract.

PERSONAL REPRESENTATIVE—CONTRACT MADE WHILE
NO PERSONAL REPRESENTATIVE TO DECEASED PERSON'S
ESTATE—RATIFICATION.

In *re Watson*, 19 Q. B. D. 234, the Court of Appeal affirmed the judgment of the Queen's Bench Division, 18 Q. B. D. 116, noted *ante* p. 64. During a period in which there was no personal representative of the estate of a deceased testatrix, the appellant, acting upon the instructions of a relative of the deceased, did work as a solicitor in respect of the administration, and for the benefit of the estate. Subsequently another person obtained letters of administration *de bonis non*, and refused to pay the appellant's bill of costs, and the Court of Appeal held that the respondent was not bound as administrator to pay such costs. Lord Esher, M. R., says, at p. 236:

It was said that the work having been for the benefit of the estate, and Philips, as administrator, having received that benefit, it would be unconscientious in him not to pay for it. I decline to make new law in order to compel persons to do that which they are bound in conscience to do; and I am not satisfied that it is unconscientious in an administrator to refuse to pay out of other people's money for work done under such circumstances as exist here."

LIFE INSURANCE—NOTICE OF DEATH—CONDITION IN
POLICY—OMISSION TO COMPLY WITH CONDITION.

Stoneham v. Ocean, Railway, and General Accident Insurance Company, 19 Q. B. D. 237, was an action brought on a policy of life insurance which was made subject to the conditions indorsed thereon, which were to be considered as incorporated therein. One of these conditions provided that "in the event of non-fatal injury by an accident occurring to the assured, notice thereof in writing shall be given to the company within seven days of the occurrence thereof;" and

another condition provided "in case of fatal accident notice thereof must be given to the company at the head office in London within the like time of seven days."

The assured was accidentally drowned in Jersey and notice was not, and under the circumstances of the case could not have been, given to the company in accordance with the last mentioned proviso. The question for the court was whether this condition was a condition precedent to the right to recover on the policy. The court (Mathew and Cave, JJ.) held that the giving of notice was not a condition precedent, and that the plaintiff was therefore entitled to recover. The court was led to this conclusion, from the fact that certain other conditions also indorsed on the policy were expressly made conditions precedent, whereas this particular condition contained no such stipulation. Cave, J., says at p. 241:

The conditions indorsed on the policy are of all sorts and vary much in their language. Some of them contain provisions that in case of non-compliance the policy shall be void; others do not. It seems to me that the rational conclusion is that all these conditions mean what they say, and that where there is a provision that the condition shall be a condition precedent it is so, but where there is no such provision it is not.

MARINE INSURANCE — DAMAGE TO CARGO BY IMPROPER
NAVIGATION—NEGLIGENCE.

Carmichael v. Liverpool Mutual Indemnity Association, 19 Q. B. D. 242, is a decision of the Court of Appeal on a question of marine insurance law. By the articles of a mutual insurance association, the plaintiffs as members were to be indemnified against loss arising to goods or merchandise caused by "improper navigation of the ship carrying the goods."

A cargo of wheat was shipped on board a vessel belonging to the plaintiff. During the loading of the cargo a port hole in the side of the vessel was, by negligence of persons employed by the plaintiffs, insufficiently secured, so that, during the voyage, water leaked in and damaged the wheat. The leak did not hinder or impede the navigation of the ship. The question was whether this was a loss arising from "improper navigation," and the Court of Appeal (Lord Esher, M. R., and Fry and Lopes, LL. J.) held (affirming the judgment of the Divisional Court (A. L. Smith and Wills,