

DIGEST OF THE ENGLISH LAW REPORTS.

been agreed between the testator and the plaintiff, that if the testator should not make public the plaintiff's conduct, the plaintiff would not sue on the bond; and that the testator had not made the adultery public. *Held*, that there was no consideration for said agreement. Demurrer allowed.—*Brown v. Brine*, 1 Ex. D. 5.

4. The plaintiff contracted to sell the defendant certain iron, deliverable in June, 1873. On June 2, and again in the middle of June, the defendant requested the plaintiff to allow the delivery to stand over; and accordingly nothing was done until Aug. 1, when the plaintiff wrote to the defendant, asking when he would take delivery; the defendant on Aug. 9 asked more time, and the plaintiff waited for a reasonable time, and on Oct. 20, 1874, began this action for breach of contract in refusing to accept or pay for the iron. The defendant contended that there was a substituted verbal agreement not enforceable under the Statute of Frauds. *Held*, that it appeared that there was neither a binding agreement to enlarge the time of delivery, nor a substituted contract; and that damages ought to be estimated according to the price of iron at a reasonable time after the defendant's letter of Aug. 9.—*Hickman v. Haynes*, L. R. 10 C. P. 598.

5. The defendant sold to the plaintiff the exclusive right of using a certain patent in Berlin. At the time of the sale the defendant had no such exclusive right, nor any patent in Prussia; nor could he acquire such patent, as the Prussian government uniformly refused to grant a patent for inventions already patented in a foreign country as this had been. All this was known to the plaintiff; but he purchased the exclusive right with the intention of deceiving the stockholders in a company being formed to use the patent with the belief that the company had such exclusive right; and the plaintiff expected, that if the company were formed, and proceeded to use the patent in Berlin, the company would make profits even without the exclusive right. The plaintiff brought this action to recover the purchase-money paid the defendant on the ground of failure of consideration. *Held*, that as the plaintiff knew all the facts in the case, he got what he paid for, and there was no failure of consideration; and also, that as the plaintiff had paid his money with the purpose of defrauding the intended shareholders in said company, it was money paid in furtherance of a fraud, and could not be recovered back.—*Begbie v. Phosphate Sewage Co.*, L. R. 10 Q. B. 491.

6. The defendant agreed to purchase the plaintiff's house and business on a certain future day in the event of the latter being proved by the plaintiff's books to be worth 77. per week. The defendant entered into possession of the plaintiff's premises, and carried on the business, and ultimately sold it. The business was not proved by the books to be worth 77. per week. *Held*, that the defendant, having received a substantial portion of the consideration, could not rely upon the

non-performance of a condition precedent to excuse him from payment of the contract price.—*Carter v. Scargill*, L. R. 10 Q. B. 564.

7. The plaintiff railway company applied to the defendant railway company for a loan, which the defendant agreed to advance upon receiving running powers over the plaintiff's line. The money was advanced, and an agreement entered into, whereby (1) the defendant was to have running powers over the plaintiff's line, subject to such by-laws as the plaintiff should make from time to time; (2) the receipts from through traffic to be divided in certain proportions; (3) the defendant to be at liberty to have their own servants at the plaintiff's stations; (4) a complete system of through booking to be had, whether running powers were exercised or not; (5) the defendant, if using its running powers, to fix the fares, and if the plaintiff objected, the matter to be referred to arbitration; (6) the defendant not to carry local traffic upon the plaintiff's line unless desired so to do, and in such case, to receive fifteen per cent of the local fares; (7) the two companies to send by each other all traffic not otherwise consigned to and from stations on the lines of each other, when such lines formed the shortest route; (8) any difference under this agreement to be settled by arbitration. The plaintiff gave the defendant three months' notice of the determination of the agreement. *Held*, that the agreement was not determinable.—*Llanelli Railway & Dock Co. v. London & North-western Railway Co.*, L. R. 7 H. L. 550; s. c. L. R. 8 Ch. 942; 8 Am. Law Rev. 535.

See BILLS AND NOTES, 3; CARRIER; IN-SURANCE; LEASE, 1, 3; LIMITATIONS, STATUTE OF, 2; PARTNERSHIP, 2; SETTLEMENT, 5; SPECIFIC PERFORMANCE; VENDOR AND PURCHASER; WAGERING CONTRACT.

COPYRIGHT.

To constitute an infringement under the English Dramatic Copyright Act, a material or substantial part of the copyright drama must be pirated.—*Chatterton v. Cave*, L. R. 10 C. P. 572.

COSTS.

Five guineas per diem allowed a skilled accountant, and two and one-half guineas per diem allowed his clerk, for days upon which they were employed on work necessary and proper to be used in evidence in support of a claim.—*Laffitte's Claim*, L. R. 20 Eq. 650.

DAMAGES.—See CONTRACT 4; NEGLIGENCE.

DECREE.

In a salvage cause, after decree rendered, a mistake was discovered in the value of the vessel and cargo upon which the salvage was estimated. The court re-opened the case and altered its decree.—*The James Armstrong*, L. R. 4 Ad. & Ec. 380.

DEED.

An acknowledgment of a deed was taken in