

COMMENTS ON CURRENT ENGLISH DECISIONS.

(Notes on the May Numbers of the Law Reports—continued).

AGREEMENT IN RESTRAINT OF TRADE, REASONABLENESS—INTENTION OF PARTIES.

Mills v. Durham (1891), 1 Ch. 576, was a motion to restrain the defendant from violating an agreement in restraint of trade. The defendant had been in the plaintiffs' employ, and had bound himself that in the event of the termination of the employment he would not, either on his own account or on the account of any employer, "call upon, directly or indirectly solicit orders from, or in any way deal or transact business with" any one who had while the employment was in force been a customer of the plaintiffs. The defendant contended that this agreement was too wide in its terms, and would prohibit the defendant from calling upon the plaintiffs' customers to solicit orders in any other trade in which he might engage. But Chitty, J., was of opinion that the restraining clauses must be construed by reference to the whole agreement, from which it was apparent that it was intended merely to prohibit the defendant from calling on the plaintiffs' customers to solicit orders in any trade similar to that which the plaintiffs were then carrying on, and he granted an injunction accordingly, which was affirmed by the Court of Appeal (Lindley, Lopes, and Kay, L.JJ.).

SOLICITOR AND CLIENT—LIEN ON FUND, EXTENT OF—SECURITY, TAKING, EFFECT OF—WAIVER OF LIEN.

In re Taylor (1891), 1 Ch. 590, one or two points of interest to the profession are determined: as to the nature and extent of the lien to which solicitors are entitled to on the papers of their clients in their hands, and as to the effect on the lien of taking security for their costs. In the present case the solicitors delivered an account to their client claiming a balance due to them of £81, and for which they claimed a lien on the client's papers in their hands. The balance only included one item of £20 for costs, the rest was made up of sums advanced by the solicitors to or on behalf of the client. The client claimed delivery of the papers on payment of the sum of £20, for which alone, it was contended, any lien existed. Stirling, J., thought the lien existed for the whole balance, but he was overruled by the Court of Appeal (Lindley, Lopes, and Kay, L.JJ.), who held that a solicitor's lien only exists in respect of his costs, charges, and expenses, which are the subject of taxation or moderation by the taxing officer. It subsequently appeared that the solicitors had taken a promissory note for the balance due them, and had not expressly reserved their lien; and this was held by the Court of Appeal to amount to a waiver of the lien altogether.

WILL—CONSTRUCTION—CONDITION, "RETURN TO ENGLAND"—VENDOR AND PURCHASER—CONDITIONS OF SALE—RIGHT TO RESCIND, "NOTWITHSTANDING PREVIOUS LITIGATION."

In re Arbib & Class (1891), 1 Ch. 601, was an application under the Vendors and Purchasers Act, in which the construction of a will was involved. The testator appointed F. E. Bucknall one of his executors and trustees, "if and when he shall return to England," and devised his estates to his trustees upon the trusts of the will. F. E. Bucknall was residing in Australia, but eight years after