

CONSTRUCTIVE NOTICE—ENGLISH AND AMERICAN LAWYERS.

Chelmsford, C., in *Crossley & Sons v. Lightowler*, L. R. 2 Ch. 478, as an immaterial circumstance: for *non constat* that the vendor does not intend to relinquish it unless he shows the contrary by reserving it. His Lordship grounded his decision on the rule that the law will not reserve anything out of a grant in favour of the grantor except in cases of necessity, which we take to be the case here. It seems that *Crossley & Sons v. Lightowler* was not referred to in argument. Had it been so we think that Lord Romilly would have considered it to express his own views of the law.

The case was in part argued upon the theory that the covenant of 1792 bound the land in the hands of the purchaser, being a covenant running with the land according to the first resolution in *Spencer's case*. And the Court was of opinion that the covenant which we have stated above was a covenant which extended to a thing in *esse*, the thing to be done being annexed and appurtenant to the land conveyed, which goes with the land and binds the assignee, although he be not mentioned in express terms; and even if this were not so, the Court was of opinion that it being manifest to the defendant when he bought his land that it was protected by the sea-wall in question, he was bound to enquire by whom that sea-wall was maintained, and must, therefore, be held bound to have had notice of all that he would have learned had he made such inquiry; and that, as by so inquiring he would have ascertained the existence of the covenant, he could not then repudiate that covenant, or refuse to perform the condition subject to which, virtually, he took the land. Whether or not the other parties to the covenant could enforce it at law, there is a class of cases of which *Tulk v. Moxhay*, 2 Ph. 774, is one, which establishes the principle that the right in equity to enforce performance of such a covenant does not depend upon whether the right can be enforced at law. The Court, in *Tulk v. Moxhay*, held that a covenant between vendor and purchaser on the sale of land that the purchaser and his assigns shall use, or abstain from using, the land in a particular way, will be enforced in equity against all subsequent purchasers with notice, independently of the question whether it be one which runs with the land. The recent case of *Wilson v. Hart*, 14 W. R. 748, L. R. 1 Ch. 463, where the covenant was that the building was not to be used as a beer-shop, may be referred to on this point.—*Solicitors' Journal*.

ENGLISH AND AMERICAN LAWYERS.

We have had the pleasure of an interview with a member of the legal profession in New York, who unfortunately has come over at the commencement of our Long Vacation, and is thus disappointed in his expectation of seeing the courts sitting. Some points arose in our conversation which are particularly interesting

at a time when the Profession in our own country threatens to assimilate itself to the Profession as it exists on the other side of the Atlantic.

In the first place we were anxious to know from a busy practitioner in New York, how the system of a single body, undivided as it is in England, works. We were not surprised to learn that the Bar, as it is called, is not very highly esteemed by the Americans. Entry into the Profession is easy; ejection difficult. A few dollars for a diploma are all the costs necessary to incur before an aspirant may commence practice. The examinations are tolerably strict, and their stringency is not abated without good and reasonable cause.

When writing upon the suggested amalgamation of the two branches of the Profession, we said that, practically, there would continue to be two classes of practitioners, although there would be an alteration of status. So we find it in America. Members of particular firms become eminent advocates, and thus obtain the business which belongs in England to the Bar. They are still, however, general practitioners, and when not engaged in court practice turn their attention to any general business of their office.

We showed our visitor two bills of costs which happened to be in our possession. They were, admittedly, very extraordinary specimens, and elicited some surprise, both on account of their intrinsic demerits and by reason of the fact that in America no costs are sent in to a client unless there be a suit. They are matter of agreement between attorney and client. Then with regard to taxation no costs whatever are allowed in connection with it. The officer does it as a matter of course, and each party is bound to appear without fee.

We then inquired of our visitor whether the absence of vestments on the bench operated adversely to its dignity. It was admitted that it did, but the remark was drily added that dignity was not accounted much of in America. The only distinguishing garment worn is a black gown, and that is confined to the Judges of one state only.

In the next place, knowing that much inconvenience is caused in this country by the difference of law and procedure prevailing in England, Scotland and Ireland, we inquired concerning the condition of America in this respect. We learned that a lawyer of one state rarely or never practises in another—that is, if he be conscientious, law and procedure both differing to so very considerable an extent. Thus we find that our acute cousins have managed to blunder in their legal arrangements in the same manner as the old mother country.

We cannot say that on the whole we are disposed to wish to see American legal forms and institutions introduced into England.—*Law Times*.