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DECISIONS IN COMMERCIAL LAW.

DRIVER V. BROAD.—This was an action for breach of a verbal contract to purchase certain debentures of a joint stock company of which the plaintiff was the owner. The debentures in question were a charge upon all the property of the company present and future, and at the time of the contract the company was possessed of certain leasehold property. The defendant pleaded that the contract was a contract for an interest in land within the Statute of Frauds, and was void because it was not in writing. Mathew, J., held this to be a good defence and dismissed the action. The result is that no person can verbally bind himself to take debentures which charge realty in any way.

DONOVAN V. LAING.—An action was brought against a master for the negligence of a servant under the following circumstances:—The defendant contracted to furnish to a firm of wharfingers engaged in unloading a ship, a crane and a man to take charge of and to work it. The man in charge of the crane was under the orders of the firm and their servants as to the working of the crane, and the defendants had no control in the matter. The plaintiff was a servant of the wharfingers and was injured through the negligence of the man in charge of the crane. Pollock, B., who tried the action, dismissed it on the ground that the man in charge of the crane was, for the purpose of a particular service in which he was engaged, the servant of the wharfingers, and the Court of Appeal affirmed his decision.

GREEN V. GREEN.—This, although a divorce case, deserves a brief notice, inasmuch as the validity of an American divorce of an English marriage came in question. The husband was an Englishman domiciled in England; the wife was an American citizen of Pennsylvania; the marriage took place in England. After some cohabitation in England the wife went to Philadelphia, partly, as she alleged, to visit her mother, who was ill, and partly to be present at her sister's marriage. She refused to return, and after repeated attempts to induce

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her husband to consent to an amicable separation, she commenced proceedings for divorce in the Court of Common Pleas in Philadelphia, and alleged cruelty. By the statute law of Pennsylvania the court had jurisdiction over all matrimonial causes when it could be shown by any wife that she was formerly a citizen of the commonwealth, and that having intermarried with a citizen of any other state, she had been forced to abandon the domicile of her husband by reason of his cruelty and adultery, and had been domiciled within the state for a whole year prior to the commencement of the suit. The husband was personally served with process, but did not appear, and the court of Philadelphia pronounced a decree of divorce. The wife subsequently went through the form of marriage with another man, with whom she was living as his wife. The English Divorce Court held the American divorce invalid, on the ground that the American court had no jurisdiction to dissolve the marriage of a British subject domiciled in England, and who had never submitted himself to the jurisdiction of that court.

IN RE OTTOS KOPJE DIAMOND MINES.—In this case two or three points of company law are discussed. This was a summary application under the provisions of the Companies Act, to compel a company to rectify the register by registering the applicant as transferee of certain shares. The shares in question had been purchased by the applicant *bona fide* from one Gardner on the faith of a certificate issued by the company to Gardner, certifying him to be the owner of the shares. After the shares had been transferred to the applicant, the directors of the company, suspecting that there was something wrong in the issue of the certificate to Gardner, refused to register the transfer to the applicant. The Court of Appeal in England agreed with Stirling, J., that although the certificate granted to Gardner did not amount to a warranty of title on which the applicant could sue the company at common law, nevertheless it estopped the company from disputing his right to be registered as transferee of the shares therein mentioned; also that the applicant's right of action arose on the refusal of the company to perform the

duty of registering the transferee, who had shown a title which the company was estopped from disputing; and thirdly, that the measure of damages for which the company was liable was the value of the shares at the time of the company's refusal to register the transferee.

IN FOWLER V. BROAD'S PATENT NIGHT LIGHT Co., Williams, J., decided that where a company has been ordered to be wound up, any calls required to be made for the purpose of liquidating the debts of the company must be made by the liquidator in the winding-up proceedings, and that the court has no power to order calls to be made either by a receiver or the liquidator in an action brought by the debenture-holders to realize their securities, even though the debentures are made a charge on the uncalled capital of the company. In short, that the power of the directors to make calls is at an end when a winding-up order is made, and the only power then to make calls is under the provisions of the Winding-up Act. Our Canadian Act is the same as the English in this respect.

IN RE PIONEERS OF MASHONALAND SYNDICATE.—This was an application by a fully paid-up shareholder of joint stock company for a winding-up order against the company on the ground that the company had issued over 10,000 shares at a discount. The petitioner contended that the only way in which the holders of these shares could be made to pay up in full was by means of proceedings under the Winding-up Act, and therefore that it was "just and equitable" within the meaning of the Act that the winding-up order should be made. Williams, J., however, was of opinion that where a company issues shares at a discount, neither the company nor any shareholder has any right to compel payment of the difference between the amount paid for such shares and the full amount thereof, but that only creditors of the company have that right. He therefore thought the applicant was disqualified by the Act complained of, and therefore that it was not "just and equitable" to make the order, and he dismissed the petition with costs.