

## DIGEST OF ENGLISH LAW REPORTS.

until the business is finally concluded.—*In re Hall*, 9 Ch. D. 538.

SOVEREIGN.—See JURISDICTION, 1.

SPECIALTY.—See MORTGAGE, 7.

SPECIFIC PERFORMANCE.

1. H contracted with R. and L. for purchase of a leasehold. It turned out that L. had no interest in the property, and R. was entitled to one moiety subject to a mortgage incorrectly mentioned in the agreement as being on the whole property. *Held*, that H. could have specific performance against R. for his interest.—*Horrocks v. Rigby*, 9 Ch. D. 180.

2. Plaintiff claimed specific performance of an agreement which he set forth. Defendant objected that the agreement was not accurately set forth, and finally produced a document differing from that produced by plaintiff. The latter amended his claim with reference to the document produced by the defendant. By the specific performance as claimed, different and additional parties to those named in the agreement produced by the defendant were set up as purchasers. But it appeared that defendant had offered the property to others for the same price, from which it was inferred that the person to whom he should sell was immaterial to him. *Held*, that plaintiff was entitled to specific performance on his claim as amended.—*Smith v. Wheatcroft*, 9 Ch. D. 223.

See CONTRACT, 1; INJUNCTION, 2.

STATUTE.—See NEGLIGENCE, 1; RAILWAY, 2.

STATUTE OF LIMITATIONS.—See LIMITATIONS, STATUTE OF.

SUCCESSION.—See SETTLEMENT, 2.

TRADEMARK.

W. was an English cotton manufacturer, G., a merchant in Rangoon, and R., a commission merchant at Manchester. They made an arrangement by which W.'s goods should be shipped through R. to G., and introduced into India. W. was to pay G. a commission, and G., in turn, allowed R. one. R. superintended the bleaching and finishing of the goods, but at W.'s expense. They agreed on a mark to distinguish the goods. This was made up of R.'s arms and name, a symbol of an elephant before used by G., and some lettering purporting to have come from W. The arrangement was quite new. After seven years' business under these arrangements, W. ceased sending goods through R., and sent them through F., who retained the same device, except that the name of F. stood in place of that of R. R. continued to export, using the old device. On cross-actions for injunction, *held*, that nobody was entitled to the exclusive use of the device first used under the agreement between R., G., and W.—*Robinson v. Finlay*. *Finlay v. Robinson*, 9 Ch. D. 487.

TRESPASS.

Appellants were fox-hunting, and, attempting to pursue the fox upon the land of the re-

spondent, he resisted, and they committed an assault upon him, for which they were fined. *Held*, correct. A man has no right to go on the land of another *in invitum* for such a purpose. *Gundry v. Fetham* (1 T. R. 334), and remark of BROOK, J. (Year Book, 12 Hen. VIII. p. 10), discussed.—*Pau v. Summerhayes*, 4 Q. B. D. 9.

TROVER.—See VENDOR AND PURCHASER.

TRUST.

1. A testator left all his estate and property, "save and except such parts thereof as are hereby otherwise specifically devised," to S. and F., trustees, upon trust to pay his widow an annuity out of the profits of his business to be carried on by his three sons, L., H., and S., for the benefit of his wife and children, and also out of "all profits arising from" any part of testator's entire property. He gave certain specific legacies to his children, the business to L., J., and S., as above, and of a certain estate called Seskin Ryan he directed the rents to be paid to his widow, and, at her death, the estate itself given to L., his eldest son. As to Seskin Ryan and some other dispositions, he said, "I will, order, and direct that all the said bequests shall stand and hold good to them, L., J., and S., only on condition of well and truly paying the several legacies herein directed, and discharging with fidelity the different trusts by this will committed to them." He ordered a schedule of his property to be made, and then all such property contained therein should "become the sole property of" L., J., and S. as residuary legatees, "on paying and discharging the different legacies and trusts in this my will." The widow received the rents of Seskin Ryan until her death in 1865. For some years before that the business had been unprofitable, and the widow's annuity had been unpaid. L. did not continue in the business. On the widow's death, she left her property to her daughter. C. L. took possession of Seskin Ryan in 1865, and died in 1873. C. died subsequently, and her executors claimed payment of the unsatisfied annuity, on the ground that the will imposed a trust on Seskin Ryan to pay it. *Held*, that the will did not create a trust.—*Cunningham v. Foot*, 3 App. Cas. 974.

2. M., trustee of a fund to pay the income to a wife for her separate use for life, sold out the stocks where the fund stood, and invested the proceeds in other stocks in the joint names of himself and the husband, at the latter's request. The income was paid to the husband. The trustee died, and the husband sold the stocks and appropriated the money without the knowledge of his wife. They afterwards separated, and the wife brought an action against him and the executor of the trustee. *Held*, that she was entitled to have the fund replaced, and to recover the income from the time when the stocks were sold by the husband. As to the dividends before that time, she was held to have had knowledge that the husband received them, and to have assented