Springfield Fire and Marine Insurance Co. v. *Allen* as a parallel case, as, also, in *Springfield Fire and Marine Insurance Co.* v. *Brown*, 43 N. Y. 389, and it may be conjectured in *Westmacott* v. *Hanley*, 22 Gr. 352, the policy contained a subrogation or unconditional clause, such as is set out above, and it was held that the mortgagor being privy to this agreement as to subrogation, *and having done that which avoided the policy as regards himself*, the insurance company were, on paying the mortgagee his loss, entitled to be subrogated.

In *Howes* v. *The Dominion Insurance Co.*, however, the mortgagor had done nothing to avoid the policy, which was a general insurance of the property, and not merely an insurance of the mortgagee's interest; and, therefore, he was held entitled to be allowed credit on the mortgage in the hands of the insurance company for the amount paid by them to the mortgagees on the policy. For under the subrogation clause, the insurance company is only to be subrogated to the rights of the mortgagees as to payment made on the policy, when it can claim that as to the mortgagor no liability therefore existed; in other words, when the mortgagor has done something to avoid the policy, and the insurance company has paid the mortgagee merely because the policy is unconditional as regards him.

Lastly, seeing that so much depends, as regards subrogation, on whether the insurance is an insurance of the mortgagee's interest only, or of the property generally, and therefore for the ultimate benefit of the mortgagor also, it is interesting to see that in *Howes* v. *The Dominion Insurance Co.*, Proudfoot, J., observes, *supra* 264, that the unconditional clause itself affords some evidence that an interest in the mortgagor was recognised by the contracting parties, and that the insurance company were not merely insuring the debt due the mortgagees.

A. H. F. L.

RECENT ENGLISH DECISIONS.

STATUTE OF LIMITATIONS—FRAUD—JUDICATURE ACT.

Proceeding with the July numbers of 9 Q. B. D., the next case requiring notice is *Gibbs* v. *Guild*, p. 59, in which the decision of Field, J., in the Court below, noted *supra*, p. 145, is affirmed by the Court of Appeal. The action was for damages for fraudulent representations alleged to have been made by the defendant, whereby the plaintiff was induced to purchase certain worthless shares in a Company, and the point of law raised by the pleadings may be recalled by referring to p. 154 *supra*. Lord Coleridge, C.J., and Brett, L.J., now held that the decision of Field, J., was correct. Both Judges agreed that the cause was one which before the Judicature Act might have taken the form either of a common law action or of a proceeding in equity; and that, in the former case the Statute of Limitations would, so far as existing authorities were a guide, have been held a bar, but in the latter case, not; yet that since the Judicature Act they were bound to see what the Court of Equity would have done, and apply that relief, although the action had been carried on in a common law division. The judgments are of special interest by reason of the remarks they contain on (i.) the way Courts of Equity dealt with the Statute of Limitations; (ii.) the effect of the Judicature Act. As to (i.), Lord Coleridge repudiates the notion that Courts of Equity engrafted an exception upon the Statute of Limitations, in the sense that they altered the terms of the Statute. He says:—"I understand the Courts of Equity to deal with the Statute of Limitations, as they deal with every other legal right, whether existing by statute or common law, not by abrogating it, but by saying, on principles well understood in these Courts, that in some particular cases it is unjust that the party should be allowed to exercise those rights" Brett, L. J., appears to take the same view. He says: "In cases in which the only remedy was in the Court of Equity,