

REPLEVIN.

*Replevin bond—Action on—Staying proceedings on equitable grounds.*]—The defendants' timber limits adjoined those of B. & C., but from uncertainty of description in their respective licenses the division line was not defined. The defendant replevied 216 pieces of timber cut within a line run under instructions of the Crown timber agent as the boundary of the defendants' limits, but on account of the infirmity in his license he failed in the action as to 175 pieces, for a return of which B. & C. were entitled to judgment. The latter procured an assignment of the replevin bond to themselves, and assigned it to the plaintiffs, who brought this action thereon. The Court was of opinion that the timber in question was cut upon lands intended by the Crown to be within the limits of the defendant's license, though B. & C. had some grounds for asserting title thereto.

*Held*, that, there having been a breach of the condition of the bond, B. & C. became entitled to recover such damages as they had sustained by replevin proceedings; that the bond, after it was assigned by the sheriff to B. & C., was a debt and chose in action assignable pursuant to the statute; and that the plaintiff having the beneficial interest therein by assignment was entitled to recover; but, it being a case for the equitable interference of the Court, it was directed that, upon payment by the defendant of the cost incurred by B. & C., in cutting and transporting the timber up to the time it was replevied, less a set-off found for the defendants in this action, (the amount to be ascertained by a reference if the defendants should so elect)

further proceedings should be stayed. *Bates et al. v. Mackey*, 34.

REPRESENTATION.

*See DESCENT.*

RESTRICTIVE COVENANT.

*See SALE OF LAND*, 3.

RULES OF COURT.

317.

SALE OF GOODS.

*Acceptance—Waiver of excessive consignment.*]—The defendants, with the knowledge that a consignment of goods was in excess of the quantity ordered by them, made no objection on that ground, though negotiations took place for a reduction in price, on account of delay, &c., but took into stock 15 out of 25 cases sent. The other 10 cases remained in bond till they were sold to pay duties.

*Held*, that there was evidence on which a waiver of any objection as to the excess was properly found. *Goodyear Rubber Co. v. Foster et al.*, 242.

SALE OF LAND.

1. *Agreement for lease—Statute of Frauds—Specific performance.*]—The plaintiff was the lessee of certain premises used as a factory, and having become insolvent the lease was forfeited by the lessor, the defendant, though at what particular time did not appear. The plaintiff con-