

DIGEST OF ENGLISH LAW REPORTS.

Held, that the company had no right to rescind the contract; that they could not recover the purchase money paid, in equity, on the ground of a lien upon it, which they had not, or on any other ground, *assumpsit* being the proper remedy; that as to the bonds the suit was needless, as they could only be assigned subject to the equities between W. and the company, and could not be sued upon without leave of court; bill dismissed without prejudice to any rights at law.

After his agreement with B., W. agreed with C., D., and E., to share the profits of the resale with them in certain proportions. W., C., D., and E. got up the company, and part of the money received by W. from the company was used by them jointly. *Held*, that C., D., and E. were improperly joined as defendants.—*Aberaman Ironworks v. Wickens*, Law Rep. 5 Eq. 485.

See DAMAGES; SPECIFIC PERFORMANCE, 4; WAY.

VESTED INTEREST.

A testator bequeathed £20,000 in trust after his daughter's death, for such of her children as she should appoint, and, in default, for all her children who should attain twenty-one, in equal shares as tenants in common. He gave powers of maintenance out of the income of the share to which any such child might be presumptively entitled, and powers of advancement to the extent of one-fourth of the portion to which any such child should be presumptively entitled. The daughter, by her will, appointed that the trustees should raise for each of her two younger children, F. and M., who should reach twenty-one, £2,000, and subject thereto, as to the whole of the fund, to all of her children who should reach twenty-one, in equal shares as tenants in common. She died, leaving four children. The eldest of these having reached twenty-one, *held*, that said eldest child was entitled to one-fourth of the income of the whole £20,000 which had accrued since the death of her mother; and that after payment to her of her share of capital, she would be entitled, during the respective minorities of F. and M., to one-fourth of the income of the two sums of £2,000 appointed to them in the event of their reaching twenty-one respectively.—*Gotch v. Foster*, Law Rep. 5 Eq. 311.

See WILL, 7.

WAIVER.—See SPECIFIC PERFORMANCE, 4.

WARRANTY.—See SALE.

WAY.

The owner of two adjoining closes, A. and B., made and used a way across B. to A. for

farm purposes, and afterwards conveyed A., "together with all ways . . . thereto appertaining, and with the same now or heretofore occupied or enjoyed." The purchaser had access to A. from other land of his own. *Held*, that, as there was no roadway over B. to A. before the unity of possession, the right to use it did not pass by the above grant.—*Thompson v. Waterlow*, Law Rep. 6 Eq. 36 followed.—*Langley v. Hammond*, Law Rep. 3 Exch. 161.

See COMPANY, 4.

WILL.

1. A will, disposing only of property in a foreign country, is not entitled to probate in England.—*In the Goods of Coode*, Law Rep. 1 P. & D. 449.

2. A will, after specific devises and bequests, continued as follows: "I give all the rest of my household furniture, books, linen, and china, except as hereinafter mentioned, goods, chattels, estate and effects, of what nature or kind soever, and wheresoever the same shall be at the time of my death," to trustees, "their executors, administrators and assigns," to sell and pay the proceeds as directed. (Surplus, after payment of debts and a legacy, to A. and B.) Then followed a bequest of ready money, proceeds of the sale of specified land, securities for money, and all sums due to testator at his death, and then further specific bequests. At the date of the will, and at the time of his death, testator was seised of a freehold estate not mentioned in the will. *Held* (contrary to the decision of *Sanderson v. Dobson*, 1 Exch. 141, and following s.c. 7 C.B. 81, approved in *O'Toole v. Brown*, 3 E. & B. 572), that said freehold passed by the words "all the rest of my estate."—*Dobson v. Bowness*, Law Rep. 5 Eq. 404.

3. Gift to A. until B. reaches twenty-one, then to B. If B. should die before her estate "should be received," then over. Codicil, giving A. the income for life. *Held*, that "received" meant "vested," and that B.'s estate vested at twenty-one, though not to be paid to B. until A.'s death.—*West v. Miller*, Law Rep. 6 Eq. 59.

4. Bequest of a residue in trust to pay one-fifth of the income each to A., B., C., D., and E. for life, remainders to their respective children. In case of the death of either of the first takers, "without leaving issue," his share to go to the survivors in like manner as the original shares. It was added, that none of said shares should be "so paid to or become vested interests in" either of said children, until he attained the age of twenty-five; but, in the