

DIGEST OF ENGLISH LAW REPORTS.

service. Demurrer. *Held*, that the term of the agreement, requiring the plaintiff to be in London on March 30, was not a condition precedent, as it did not go to the root of the contract, so that a failure to perform it would render the performance of the rest of the contract by the plaintiff a thing different in substance from what the defendant stipulated for.—*Bettini v. Gye*, 1 Q. B. D. 183.

CONSOLIDATION.—*See* MORTGAGE, 2.

CONSTRUCTION.—*See* CONDITION, 1; CONTRACT; DEVISE; DWELLING-PLACE; EXECUTORS AND ADMINISTRATORS; FREIGHT; ILLEGITIMATE CHILDREN; LEGACY; SETTLEMENT; WAGER; WILL, 3.

CONTRACT.

1. A building society comprised under its rules investing or "unadvanced" members and borrowing or "advanced" members. The unadvanced members subscribed for shares, and became entitled to interest on their subscription-money. The advanced members were those who subscribed for shares in order to obtain an advance out of the funds of the society. The society was authorized by its rules to make, to the member who offered the highest premium, loans which were secured by mortgage. S. borrowed money of the society at a certain premium, and executed a mortgage, in which he covenanted to pay the society certain sums periodically "at the times and in manner prescribed by its rules for the time being applicable," until (first) the sum borrowed, with interest at four per cent. on the amount thereof, should be paid, and until (secondly) said premium, with interest at said rate, should be paid; and that, in the meantime, all the rules for the time being of the society should, in respect of said borrowed sum, be observed and complied with by S. Subsequently the society, which had in the meantime lost money, passed new rules, which imposed upon members the obligation to contribute towards repayment of said losses, and that, "so far as the rules of law and equity will permit, these rules shall apply to all the members as well present as future, and to all transactions as well past as future." *Held*, that S. was not obliged to make any contribution imposed upon him under said new rules.—*Smith's Case*, 1 Ch. D. 481.

2. The defendant, who carried on business in London, sent an order by letter for certain goods to the plaintiff in Southwark. The plaintiff did not answer the letter, but sent the goods to the defendant in London, where they were accepted. *Held*, that the cause of action arose in London.—*Taylor v. Jones*, 1 C. P. D. 87.

3. The defendant, a broker, signed a sold note in these terms: "Messrs. S. & Co., I have this day sold by your order and for your account, to my principals, about five tons of pressed anthracene, xx." *Held*, that the defendant was personally liable on said sold

note in an action for goods sold and delivered.—*Southwell v. Bowditch*, 1 C. P. D. 100.

See BROKER, 2; CARRIER; CONDITION, 2; DAMAGES; ELECTION, 2; FREIGHT; MASTER AND SERVANT.

CONVERSION.—*See* BROKER, 1; DEVISE, 6.

CONVERSION OF REALTY INTO PERSONALTY.—*See* ELECTION, 1.

CONVICTION.—*See* JUDGE, DISQUALIFICATION OF.

CORPUS.—*See* DEVISE, 5.

COURT.—*See* JUDGE, DISQUALIFICATION OF.

COVENANT.

The defendant purchased a piece of land forming portion of a much larger tract of a mortgagor and mortgagees in possession, and covenanted with the mortgagees, their heirs and assigns, not to erect any building thereon nearer a certain road on which the land fronted than the line frontage of other adjoining houses on said road, and to observe a straight line of frontage with such houses. B. purchased another piece of land next the defendant's lot, and made similar covenants. Subsequently the mortgagees transferred to M. their securities on the remainder of said tract, and conveyed to him the fees of the tract, subject to the equity of redemption. The defendant built two houses on his land, the general line of which was nearer said road than the line of said existing houses by from five inches to a foot. The defendant's houses were, moreover, built with bay-windows, projecting about three feet farther towards the road, and carried from the foundation to the roof. It seems that the defendant had notice given B. and M. not to build as aforesaid. B. and M. filed a bill praying an injunction restraining the defendant from permitting to continue on his premises any building nearer said road than the line of frontage of said existing houses; but they consented not to press so much of the bill as related to the advance of the main line of the building. *Held*, that the plaintiffs were entitled to a mandatory injunction against continuance of the bay-windows. The bay-window was a "building:" the plaintiffs were not obliged to show damage; they each had an interest sufficient to maintain the suit; and having given notice to the defendant, they were entitled to a mandatory injunction.—*Lord Manners v. Johnson*, 1 Ch. D. 673.

See LEASE; SPECIFIC PERFORMANCE.

CRIMINAL PROCEEDINGS.—*See* JUDGE, DISQUALIFICATION OF.

CUSTOM.

A custom was alleged to exist among furniture-dealers to furnish persons, under a "hiring agreement," with furniture which shall remain in their possession while the property remains in the dealer until certain