

## DIGEST OF ENGLISH LAW REPORTS.

not raising it sooner; and that, though either party may by subsequent notice make time of the essence of the contract, a reasonable time must be allowed, which had not been done. The decree limited objections to title to those made in a letter of June 14, 1863, accompanied by an opinion of counsel, and accepting the title, subject thereto.—*McMurray v. Spicer*, Law Rep. 5 Eq. 527.

## STAMP.

By the 17 & 18 Vic. cap. 83, sec. 5, no person shall be entitled to recover in an action brought on any foreign bill of exchange, unless it had the stamp required by the act upon it at the time it was transferred to him. In such an action, the plaintiff could not remember whether the bill was stamped when he received it, but it was so when produced at the trial. *Held*, *prima facie* evidence that the act had been complied with.—*Bradlaugh v. De Rin*, Law Rep. 3 C. B. 286.

STATUTE OF FRAUDS.—*See* DAMAGES, 2; SPECIFIC PERFORMANCE, 4; TRUST, 1.

STATUTE OF LIMITATIONS.—*See* LIMITATIONS, STATUTE OF.

## STOPPAGE IN TRANSITU.

Goods were shipped by A. in Calcutta to B. in England. B. pledged the bill of lading to C., and afterwards became bankrupt. On the arrival of the ship in which the goods were, C. obtained from the ship's brokers, on payment of the freight, an overside order for the delivery of the goods. This order was presented to the officer of the ship, who promised C. should have the goods as soon as they could be got at. Before the ship broke bulk, A. forbade the delivery of the goods. *Held*, that A. had not lost his right of stoppage *in transitu*. The goods were not brought into the possession, actual or constructive, of B. by the promise to C. After satisfying C., A. had a right to the surplus proceeds, as against the assignees in bankruptcy of B.—*Coventry v. Gladstone*, Law Rep. 6 Eq. 44.

TENANT IN COMMON.—*See* WILL, 6.

TIME.—*See* SPECIFIC PERFORMANCE, 3, 4.

## TRIAL BY JURY.

The defendant to a bill for an injunction to protect a legal right, viz., a patent, cannot claim a trial by jury as a matter of right. Before St. 21 & 22 Vic. c. 27, and 25 & 26 Vic. c. 42, such cases were sent to be tried at law, not to obtain a jury trial, but because the judgment of a common law court was required. *Bovill v. Hitchcock*, Law Rep. 3 Ch. 417.

## TRUST.

1. When a person knows that a testator intends certain property to be applied for pur-

poses other than for his own benefit, and, either expressly or by implication, promises so to apply it, and it is left to him on the faith of that promise, it is a case of trust, and the devisee cannot set up the Statute of Frauds. Decree of the Master of the Rolls reversed on the evidence.—*Jones v. Badley*, Law Rep. 3 Ch. 362.

2. It having been *held*, reversing the decision of the First Division of the Court of Session, that the appellants were entitled to the fee simple of certain lands by a devise to charitable uses, two hundred years before, and not only to a rent charge of a certain sum, it was further *held*, that the respondent having acknowledged the trust, and the question being only as to its extent, the question of prescription did not arise.—*University of Aberdeen v. Irvine*, Law Rep. 1 H. L. Sc. 289.

3. By a marriage settlement, made in 1821, stock belonging to the wife was assigned to B. and another, in trust for the separate use of the wife for life, remainder to the husband for life; remainder, in default of children of the marriage, to B. The trustees neglected to have the stock transferred to them, and in 1822 the husband and wife sold it, and the former took the proceeds. B. died in 1829, the husband in 1838, and the wife in 1864. There were no children. In 1866, B.'s executors claimed the trust fund from the husbands' estate. *Held*, that the claim was not barred by the Statute of Limitations (which did not begin to run until 1864), nor by B.'s acquiescence. His cognizance of the misapplication of the trust funds could not be inferred from his having taken no step, for eight years, to secure them. Any other *cestui que trust* could have compelled the husband's estate to refund; and the fact that B. was also a trustee did not change the case.—*Butler v. Carter*, Law Rep. 5 Eq. 276.

*See* BANKER; LIMITATIONS, STATUTE OF, 3; WILLS, 6, 8.

## ULTRA VIRES.

1. In October, 1864, the defendant company, having borrowed all the money (£60,000) which it was empowered to, issued a debenture for £500 to W. Later in the same year, seventeen similar debentures were satisfied by a sale of goods on execution. February, 1865, the directors re-issued four debentures for £500 to E., in return for his check for £1,000, and an overdue Lloyd's bond for £1,000. March, 1865, they re-issued ten more debentures for £500, to E., for cash; and in July, 1865, they issued one for £1,000 to L., under an agreement for the hire of engines. By §§ 39, 40 of the Com-