payment of the purchase-money." There was no further provision in the contract in reference to the deposit. Fry, L. J., at p. 100, says: "What is the meaning of this expression, 'a deposit, and in fact, payment of the purchase-money?' The authorities seem to leave the matter in some doubt. . . . These authorities appear to afford no certain light to answer the inquiry whether, in the absence of express stipulation, money paid as a deposit on the signing of a contract can be recovered by the payer if he has made such default in performance of his part as to have lost all right to performance by the other party of the contract, or damages for his own non-performance. Money paid as a deposit must, I conceive, be paid on some terms implied or expressed. In this case no terms are expressed, and we must therefore inquire what terms are to be implied. The terms most naturally to be implied appear to me in the case of money paid on the signing of a contract to be that in the event of the contract being performed it shall be brought into account, but if the contract is not performed by the payer it shall remain the property of the payee. It is not merely a part payment, but is then also an earnest to bind the bargain so entered into, and creates by the fear of its forfeiture a motive in the payer to perform the contract." In the same way, at p. 95, Cotton, L. J., says: "What is the deposit? The deposit, as I understand it, . . . is a guarantee that the contract shall be performed. If the sale goes on, of course, not only in accordance with the words of the contract, but in accordance with the intention of the parties in making the contract, it goes in part payment of the purchase-money for which it is deposited; but if, on the default of the purchaser the contract goes off, that is to say, if he repudiates the contract, then . . . he can have no right to recover the deposit."

SALE OF GOOD-WILL—RIGHT TO SOLICIT OLD CUSTOMERS.

The case of *Pearson* v. *Pearson*, p. 155, has next to be noticed, and is of much interest, inasmuch as it is a decision of the Court of Appeal over-ruling *Labouchere* v. *Dawson*, L. R. 13 Eq. 322, wherein Lord Romilly laid it down that the seller of a business, with its good-will, may, in the absence of any express agreement to the contrary, carry on the same business wherever he pleases, and solicit customers in any public manner, but that he must not apply to any of the old customers privately by letter, personally, or by traveller, asking them to continue their custom with him and not to deal with the vendees. The Court of Appeal now held that there is nothing in the sale of a good-will to prevent a man soliciting his old customers to deal with him. Thus Cotton, L. J., says, p. 157: "Lord Romilly rests his decision in *Labouchere* v. *Dawson* on the principle that a man cannot derogate from his own grant. But it is admitted that a person who has sold the good-will of his business may set up a similar business next door and say that he is the person who carried on the old business, yet such proceedings manifestly tend to prevent the old customers going to the old place. I cannot see where to draw the line; if he may by his acts invite the old customers to deal with him, and not with the purchaser, why may he not apply to them and ask them to do so? I think it would be wrong to put such a meaning on 'good-will,' as would give a right to such an injunction as has been granted in the present case." It is to be noticed, however, that Lindley, L. J., dissents from his colleagues. He says, p. 159: "It is true that *Labouchere* v. *Dawson* went beyond the preceding cases, but did it go beyond them so far as to be wrong? It went on the principle that a person who has sold the good-will of his business shall not