

DIGEST OF THE ENGLISH LAW REPORTS.

to assume control of and finish them, in which case the contractor should be paid only for the work he had done. *Held*, that the forfeiture of the sums of money, materials, and implements, as set forth in the above clause, could only be enforced before the expiration of the time limited for the completion of the contract.—*Walker v. The London & North-western Railway Co.*, 1 C. P. D. 518.

• See PRINCIPAL AND AGENT, 1.

CONTRACT TO SELL.—See VENDOR'S LIEN.

CONTRIBUTORY NEGLIGENCE.—See COLLISION, 1 COVENANT.

Covenant by a lessee to keep only such a number of hares and rabbits as should not injure the crops, &c.; and in case he kept a greater number, he should pay a fair compensation for the damage, to be fixed, in case of disagreement, by two arbitrators. In an action for breach of the covenant to keep only such a number, *held* that the action could be maintained before an arbitration, the clause as to arbitration being a distinct and collateral covenant.—*Dawson et al. v. Lord Fitzgerald*, 1 Ex. D. 257.

CREDITOR WITH NOTICE.—See JOINT DEBTOR.

DAMAGE TO CARGO.—See BILL OF LADING.

DAMAGES, MEASURE OF.—See MEASURE OF DAMAGES.

DEAF MUTE.

A deaf mute was found guilty of felony, but the jury also found that the prisoner was not capable of understanding, and did not understand, the proceedings against him. *Held*, that the prisoner could not be convicted; and it was ordered that he be detained as of insane mind during the Queen's pleasure.—*The Queen v. Barry*, 1 Q. B. D. 447.

DEBT OF HONOUR.—See INFANT.

DELIVERY OF CARGO.—See BILL OF LADING.

DISCOVERY.—See PRODUCTION OF DOCUMENTS.

DISTRIBUTION.—See TRUST TO SELL.

DOCUMENTS, INSPECTION OF.—See INSPECTION OF DOCUMENTS.

ESTOPPEL.

A company, formed to build a railway, improperly went on when only one-fifth of the capital stock was taken. In a bill filed by a shareholder to avoid his contract to take shares, it appeared that, for a long time after the company was to his knowledge proceeding illegally, he continued to act with the other members of it, and did not protest against the improper and illegal acts. *Held*, that, though he might have originally had a ground of relief, he had lost it by acquiescence.—*Sharp-ley v. Louth & East Coast Railway Company*, 2 Ch. D. 663.

See BILLS AND NOTES, 2; VENDOR'S LIEN.

EQUITABLE OWNER.—See INSURANCE.

EVIDENCE.—See BILLS AND NOTES, 2.

FORCIBLE ENTRY.

L. was mortgagee in fee of premises, but did not take actual possession. T. and W. occupied the premises under the mortgagor, who had never been dispossessed. L. one day had a carpenter take off the lock of one of the doors, and he entered into possession. T. and W. entered by a window and expelled L. L. had them indicted for forcible entry. They were acquitted, and sued L. for malicious prosecution without reasonable and probable cause. *Held*, that the action could not be maintained. If L. got the legal possession for civil purposes, that was ground enough for an indictment against T. and W. for forcible entry.—*Lows v. Telford et al.*, 1 App. Cas. 414.

FOREIGN JUDGMENT.—See MARINE INSURANCE, 2.

FORFEITURE.—See CONTRACT, 2.

FORGED INDORSEMENT.—See BILLS AND NOTES, 2, 3.

FRAUDS, STATUTE OF.—See STATUTE OF FRAUDS.

FREIGHT.

Charterparty by the defendants to convey a cargo of railway iron from England to Taganrog, Sea of Azof, "or so near thereto as the ship could safely get," consigned to a Russian railway company. The ship arrived Dec. 17, at Kertch, a port thirty miles from Taganrog, where the captain, the plaintiff, found the sea blocked up with ice, and unnavigable till April. Against the orders of the charterers, who notified him that they would hold him responsible, he proceeded to unload the cargo; and, there being nobody to receive it, he put it in charge of the custom-house authorities there. The consignees claimed it; and, on their producing the bills of lading and charterparty, it was delivered to them against the captain's claim that it should be retained for freight. A receipt was given to the effect that the cargo was received "on the power of the charterparty and the bill of lading." *Held*, by MELLOR and QUAIN, J.J., that the captain was entitled to no freight; by COCKBURN, C.J., that he ought to have freight *pro rata*.—*Metcalf v. The Britannia Iron-works Co.*, 1 Q. B. D. 613.

FRIVOLOUS SUIT.

The court will stay summarily as frivolous and vexatious an action brought for conspiring to make, and making, false statements about the plaintiff, if the defendants come in and show that they did all that they did as members of a military court of inquiry, and in the performance of their official duty.—*Dawkins v. Prince Edward of Saxe Weimar*. *Same v. Wynyard*. *Same v. Stephenson*, 1 Q. B. D. 499.

FUND IN COURT.—See MARRIAGE SETTLEMENT.

GOOD-WILL.—See MORTGAGOR AND MORTGAGEE.

INDORSEMENT OF CHECK.—See BILLS AND NOTES, 1, 2, 3.