

DIGEST OF ENGLISH LAW REPORTS.

to pay the balance due the general creditors, including those shareholders who were general creditors. — *In re Professional Life Ins. Co.*, Law Rep. 3 Eq. 668.

MINES.

A reservation "of mines and minerals within and under" land includes stone used for road-making and paving, and quarries as well as underground mines.—*Midland Railway Co. v. Checkley*, Law Rep. 4 Eq. 19.

MISREPRESENTATION—

1. A prospectus of a railway company stated that "the engineer's report may be inspected, and further information obtained, at the office." A. applied for shares on a printed form, which stated that he agreed to be bound by the conditions in the memorandum and articles of association. An examination of these papers would have given him the information, the want of which he alleged as a reason for rescinding his contract. Trusting to the statements in the prospectus, he did not examine them. *Held*, that his neglect to examine them was no answer on a bill by him to be relieved from his contract to take shares on the ground of misrepresentations and concealment in the prospectus.—*Central Railway Co. v. Kisch*, Law Rep. 2 H. L. 99.

2. The defendants' manager gave the plaintiff a guarantee, that, if he would supply D., a customer of theirs, with goods to carry out a government contract, they would pay D.'s check in the plaintiff's favor, on receipt of the government money, in priority to any other payment "except to this bank." D. then owed the bank £12,000, but the plaintiff did not know this, nor did the manager tell him. The plaintiff supplied goods to the value of £1,227; the government money to £2,876 was paid by D. into the bank; but the defendants refused to pay the plaintiff, and claimed to retain the whole in payment of D.'s debt to them. In an action for false representation and for money had and received, *held*, (1) that there was evidence for the jury that the manager knew and intended that the guarantee should be unavailing, and fraudulently concealed the fact which would make it so; (2) that the defendants would be liable for such fraud in their agent; and (3) that the fraud was properly laid as the fraud of the defendants. Whether the plaintiff could have recovered under the count for money had and received, *quære*.—*Barwick v. English Joint Stock Bank*, Law Rep. 2 Ex. 259.

MISTAKE.

A. agreed to hire a fishery from B., A. and B. both believing that under a private statute

it belonged to B. A. afterwards procured a copy of the statute, and found that by it the fishery belonged to himself. On cause petition by A. (in Ireland), praying that the agreement might be cancelled and for other relief, *held*, that the agreement should be cancelled as founded on mutual mistake, and that there should be a declaration of A.'s title.—*Cooper v. Phibbs*, Law Rep. 2 H. L. 149.

MORTGAGE.—*See* ADMIRALTY, 2; BENEFIT SOCIETY; FOREIGN COURT; PRIORITY, 1, 2.

MORTMAIN.

1. A bequest to the trustees of a chapel in C., to be applied towards the erection of a new chapel in C. *Held*, that the bequest was not void as against the statute of mortmain, if there was land belonging to the trustees at the date of the will, on which a new chapel could be built in substitution for the old one.—*Booth v. Carter*, Law Rep. 3 Eq. 757.

2. A., being entitled to moneys secured by bond and mortgage, bequeathed all her property to her daughters, B., C., and D., whom she appointed executrixes. B. died before A.'s death, and C. died intestate soon after A.'s death, and D. became alone entitled to said moneys. The moneys were not called in during D.'s life, who by her will gave legacies to charities, *Held*, that the court would not assume, in favor of the charities, a conversion into pure personalty, which D. was not bound to make.—*Lucas v. Jones*, Law Rep. 4 Eq. 73.

3. A testatrix gave her property not applicable under her will for the purpose of mortmain to A., and B., his son, as joint tenants. She gave her property applicable for the purposes of mortmain to certain charities. She died possessed of large property, of which the greater part was realty. A. was her confidential adviser. It appeared from evidence that A. was aware of the gift in the lifetime of the testatrix, and that it was intended by her to be applied for charity, and that either by silence or acquiescence he had led her to suppose that it would be so applied. On bill by the heirs of the testatrix, *held*, that the gift to A. and B. could not be upheld, and that they were trustees for the plaintiffs.—*Jones v. Bradley*, Law Rep. 3 Eq. 635.

NEGLIGENCE.

1. The plaintiff being on the premises of the defendant, a sugar-refiner, on lawful business, in the course of fulfilling a contract in which the plaintiff's employer and the defendant both had an interest, fell through an unfenced hole in the floor, without negligence on his part, and