

The mortgagee afterwards instituted proceedings against the mortgagor, to enforce payment of the mortgage money and interest, whereupon the mortgagor filed a bill in this court to restrain the action so brought against him, asserting that the sale by the sheriff had the effect of discharging him from all liability in respect of the mortgage debt. The court, under the circumstances, refused the application, the effect of such purchase by the mortgagee being not greater than a decree of foreclosure; where, if after a final decree, the mortgagee proceeds to enforce payment of the mortgage money, it will open up the foreclosure: and (*Semble*) that after such a sale the mortgagor might have treated the mortgagee as liable to be redeemed, and have filed his bill for that purpose.

Smart v. Cottle, 59.

### TIME.

(COMPUTATION OF.)

By the terms of an agreement, dated the 20th of September, money was to be paid within one month, and on the 21st of October the money was tendered by the party who was to pay. *Held*, sufficient, the day of the execution of the instrument being excluded in the computation of the time.

Barnes v. Boomer, 522.

### TITLE.

See "Specific Performance," 1, 8.

### TRADE FIXTURES.

See "Injunction," 7.

### TRUSTEES.

(TO SELL.)

Land was vested in trustees by a deed which provided, "that all or any part of the said messuages, tenements or premises, shall or may be absolutely sold and disposed of by the said trustees, or the survivor of them, his executors or administrators, with the consent in writing of the parties of the first and second parts (the *cestuis que trustent*) or the survivor of them, and after the decease of the said parties of the first and second parts, then in the discretion of the said parties of the third part, for any price which they, the trustees or trustee, shall think reasonable; and in case of such sale, the money to arise or be produced from the same shall be paid to the said trustees or the survivor of them, his executors or administrators, without any necessity or obligation on the part of the purchaser or purchasers thereof to see to the application of such money or any part thereof, so as he, she, or they, shall take the receipt or receipts of the said parties of the third part, or the survivor of them, his executors or administrators, or other only acting

trustee being of the other trust, pointed instead. C., *Es* dubitan to an estate with t que tru sell wa transfe tes: the su fected, the ce reality ves, th filed b enforce under costs.

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