

of £10 to be made for renewal fees in order to keep it on foot, and the omission to make one of these payments for three months would render the patent invalid. They assigned the patent, subject to the payment of a royalty, to the *Railway and Electric Appliances Co.* by deed, dated March 1st, 1883. The company by accident neglected to make the payments of the renewal fees, and the patent was forfeited; a subsequent ineffectual attempt was made to obtain a private Act to revive the patent. The company having gone into liquidation, Gilbert and Scott preferred a claim against the company for £2,000 for damages occasioned by the company's neglect to pay the renewal fees; and for the claimants it was contended that a covenant must be implied on the part of the company to keep the patent on foot. There being no such covenant expressed in the deed, and no words therein capable of being construed into such a covenant, Kay, J., came to the conclusion that none could be implied, that the assignors believing the patent to be a valuable one, and that the company would not neglect to keep it on foot, had been content to have that to be governed by the interest the company would have in keeping the patent on foot, without asking them to enter into any contract or covenant to that effect. He, therefore, held the claim for damages could not be maintained.

MORTGAGOR AND MORTGAGEE—EXECUTOR—DEVASTAVIT—STATUTE OF LIMITATIONS—
TRUSTEES—RENTS AND PROFITS—ASSETS.

In re Hyatt, Bowles v. Hyatt, 38 Chy. D. 609, the facts were as follows: A testator mortgaged freeholds and died in May, 1867, having devised all his real and personal estate to A and B upon certain trusts, and having appointed them his executors. The executors, without making provision for the mortgage debt, of which they had notice, applied the whole of the personalty in payment to simple contract creditors and beneficiaries. In 1869 A died, and C was appointed trustee in his place in 1871. The rents of the real estate were received by A and B, and by B and C, and after payment of the interest on the mortgage, the balance was applied in accordance with the trusts of the will. The mortgaged property became an insufficient security, and the interest having fallen in arrears, the mortgagee commenced proceedings against B and C, under which accounts of the testator's personal estate received by A and B, or by B alone, were directed, and also the usual accounts of the testator's real estate, including an account of rents received by B and C. In the accounts brought in by B and C, they claimed credit for all payments and disbursements made to simple contract creditors and beneficiaries; and further, that as to such of the payments as were made by A and B upwards of six years prior to the action, any claim on a *devastavit* was statute barred, and that as to the rents and profits they were not liable to account for them at all. Chitty, J., however, held, following *In re Marsden*, 26 Chy. D. 783, that B could not set up his own and A's wrongful payment by way of *devastavit* as a defence in order to claim the benefit of the Statute of Limitations. And that as to the rents and profits which had been received by B, or by B and C jointly, that they were under 3 & 4 Wm. IV. c. 104, assets by accretion, liable under the circumstances for payment of speciality