

DIGEST OF ENGLISH LAW REPORTS.

evidence was admissible, and showed that there had been no "default," within the meaning of the deed.—*Albert v. Grosvenor Investment Co.*, Law Rep. 3 Q. B. 123.

See FRAUDS, STATUTE OF; MISTAKE.

PARTIES.

C. & Co., merchants in Spain, gave one J. a power of attorney to sell certain mines belonging to them, J. to receive half of the price obtained above a certain amount. J. contracted to sell the mines to the defendant company by an agreement purporting to be made between "J., acting for himself, and also, under a letter of attorney, for A., B. and C., all three co-proprietors with him of various mines, and in co-partnership with him under the style of C. & Co.," of the one part, and the defendants of the other part. In the body of the agreement, C. & Co. were described as "the vendors," and the vendors were to give a good title to the mines. The agreement was signed by J., "for self and partners," and was sealed with the defendants' seal. *Held*, that J. alone could not maintain an action for breach of the agreement, but that A., B. & C. must be joined as plaintiffs.—*Jung v. Phosphate of Lime Co.*, Law Rep. 3 C. P. 139.

PARTNERSHIP.

The plaintiff, being entitled to a fund in court, gave the firm of solicitors who had acted for him in the matter a joint and several power of attorney to receive the money. The plaintiff was in the habit of addressing his letters to B., one of the firm, individually, and not to the firm, and he sent the power addressed to B., who, under it, received the money, signed the receipt in his own name, paid the money into his private bank account, and soon after absconded with it. On a bill seeking to make S., the other partner, liable to repay the money, but not praying an account, *held*, (1) that there was jurisdiction at equity, though there might be also at law; and (2) that a decree should be made that S. should repay the amount with interest.—*St. Aubyn v. Smart*, Law Rep. 5 Eq. 183.

See CLUB.

PATENT.

A patentee of an invention applicable to part of a machine, who, himself a manufacturer, has been in the habit of allowing other manufacturers to use his invention, on payment of a fixed royalty for each machine, having obtained against an infringing manufacturer a decree (amongst other things) for damages "by reason of the user or vending" of the invention, cannot claim, by way of damages, a manufacturing profit, in addition to his ordinary royalty; and

certain persons (not being manufacturers) who had used unlicensed machines, fitted by the defendant with the invention, having paid the plaintiff his ordinary royalty, no further royalty in such cases can be recovered from the defendant.—*Penn v. Jack*, Law Rep. 5 Eq. 81.

PAYMENT.—See SALE.

PENALTY.—See VENDOR AND PURCHASER OF REAL ESTATE, 2.

PILOT.—See COLLISION.

PLEADING.

To a declaration for goods sold and delivered, claiming £120, the defendant pleaded: 1. Never indebted; 2. "And for a further plea," that after the commencement of the suit, and after the last pleading, it was agreed that the plaintiff should accept from the defendant £60 in settlement of the debt sought to be recovered in the action; and the defendant paid and the plaintiffs accepted £60 in satisfaction and discharge of their said debt. On demurrer to the second plea, *held*, that the plea, being pleaded generally, must be taken to be pleaded to the whole causes of action; and as it alleged the payment, after action brought, to have been in satisfaction of the debt only, it was bad for leaving unanswered any damages to which the plaintiffs might be entitled.—*Ask v. Pouppeville*, Law Rep. 3 Q. B. 86.

See EQUITY PLEADING AND PRACTICE; PARTIES.

PLEDGE.—See FACTOR.

POWER.

A testator gave an estate on trust for sale the proceeds to be held on such trusts as his widow—by deed or instrument sealed and delivered before his youngest child should attain twenty-five years—should appoint, and, in default, for his children (except the eldest son) equally. The widow, by will, executed before the youngest child attained twenty-five, appointed the estate by name to the eldest son. She died after the youngest child attained twenty-five. *Held*, that the will, having come into operation after the prescribed period, could not take effect as an appointment under the power; and that this was not such a defective execution as would be aided in equity.—*Cooper v. Martin*, Law Rep. 3 Ch. 47.

See ELECTION.

PRACTICE.—See EQUITY PLEADING AND PRACTICE.

PRINCIPAL AND AGENT.—See CUSTOM; EQUITY PLEADING AND PRACTICE, 3; FACTOR.

PRIORITY.

Formal notice to the trustee of a fund, in which an insolvent is interested, is necessary to give the assignee in insolvency priority over