

## DIGEST OF ENGLISH REPORTS.

arising from her fiduciary capacity as donee of the power; that the lease was a good exercise of the power; and that, if some of the licenses granted were void, the lease was void *pro tanto* only. *Held*, by *Byles and Montague Smith, J.J.*, that a mere working power was given to the daughter; and that the lease was void, or could not at all events extend beyond the daughter's life.—*Jegon v. Vivian*, Law Rep. 1 C. P. 9.

4. Under a settlement of personalty containing a power to sell the trust funds, and invest in real estate to be held on such trusts as would best correspond with the subsisting trusts, and to be considered personal estate for the purposes of the settlement, the trustees have a power of sale over purchased real estate, though no such express power is contained in the settlement.—*Tait v. Lathbury*, Law Rep. 1 Eq. 174.

5. If a power, coupled with a duty, is given to trustees, to be executed at a fixed period, and after they have come to a judgment as to the conduct of the individual to be effected, who has married three years before the time for such execution; and if the trustees formally approved of the marriage, and were made aware of a provision out of the trust estate for the intended wife, contained in the marriage settlement, and though they gave no warning that they might be obliged to defeat such provision, yet it is the duty of the trustees (the husband having, in their judgment, subsequently misconducted himself) to execute the power, so as to restrict him to a life-interest, though the provision for the wife's and other claims founded on the marriage settlement, are thereby defeated.—*Weller v. Ker*, Law Rep. 1 II. L. Sc. 11.

6. By a marriage settlement, a wife had power to appoint a fund to "all and every the children, or child, or more remote issue of the marriage." She appointed the fund to new trustees on trust to pay the income to her only child for his life, or until he became bankrupt, or assigned the same; and then to the trustees for his life, for the benefit of her son, his wife, and children, or any of them, as the trustees should think expedient. *Held*, that the appointment was void *in toto*, and not merely for the excess.—*Brown's Trust*, Law Rep. 1 Eq. 74.

See WILL, 13.

## PRACTICE (AT LAW).

1. An indorsement of a notice on a writ of summons, allowing less time for payment than the time limited for appearance, is an irregularity not waived by admission of service.—*Galli v. Mongruel*, Law Rep. 1 C. P. 46.

2. The court will not interfere with the discretion of a judge at chambers in refusing leave to proceed without personal service, under 15 & 16 Vic. c. 76, § 17.—*Tomlinson v. Goutly*, Law Rep. 1 C. P. 230.

3. A writ having been issued for service out of the jurisdiction, the court, not being satisfied that the plaintiff did not intend to sue for matters not arising within the jurisdiction, ordered the writ to be set aside, unless the plaintiff would give an undertaking to prove, and confine himself to a cause of action arising within the jurisdiction.—*Diamond v. Sutton*, Law Rep. 1 Ex. 130.

See ARBITRATION; COSTS; DAMAGES, 2; EQUITY PRACTICE; INTERROGATORIES; JURY; PARTICULARS.

PRESCRIPTION.—See HIGHWAY, 3; LANDLORD AND TENANT, 1; NUISANCE, 1.

## PRINCIPAL AND AGENT.

1. A. having employed B. to manage and carry on—in the name of "B. & Co."—his business, to which the drawing and accepting bills of exchange was incidental, although he forbade B. to accept or draw bills, was *held* liable on a bill accepted by B. in the name of "B. & Co.," in the hands of an endorsee, who took it without any knowledge of A. and B., or the business.—*Edmunds v. Bushell*, Law Rep. 1 Q. B. 97.

2. If an auctioneer, who is authorized to sell goods on condition that purchasers shall pay a deposit at once, and the remainder of the purchase money on or before delivery of the goods, receives payment by a bill of exchange, which falls due, and for which he receives cash, after his authority to sell is revoked, the purchaser is not discharged.—*Williams v. Evans*, Law Rep. 1 Q. B. 352.

3. A., a broker, sold some yarn to the defendant. Before its delivery, the defendant paid A. in advance £1,000 on his general account. Part of the yarn was sold by A., as agent for the plaintiff, on a *del credere* commission. The yarn being worth more than £1,000, the defendant paid the difference to A. in cash, and so balanced the accounts between them. A. did not pay over to the plaintiff the value of his yarn, and became bankrupt. *Held*, that the defendant was still liable to the plaintiff for the price of his yarn, except to the extent of the cash payment.—*Catterall v. Hindle*, Law Rep. 1 C. P. 186.

4. The duties of the agent of a company being personal, and incapable of being enforced in equity, the court refused to restrain the directors from acting upon or enforcing the resignation of A., whose agency was made a condition