

DIGEST OF ENGLISH REPORTS.

ing that the patentee's accounts of his own expenses in carrying on the patent were unsatisfactory, and that no accounts were given of the profits made by the licensees.—*Trotman's Patent*, Law Rep. 1 P. C. 118.

5. At the hearing of a suit for infringement of a patent, evidence of prior user, not disclosed by the particulars of objection, is admissible, though discovered since the delivery of the particulars.—*Daw v. Eley*, Law Rep. 1 Eq. 38.

6. In a suit to restrain the infringement of a patent, the defendant need not deliver particulars of objections, where replication has been filed, and the court has refused to direct issues.—*Bovill v. Goodier*, Law Rep. 1 Eq. 33.

See COPYRIGHT, 3; INTERROGATORIES, 3; COMPANY, 1.

PEDIGREE.—See EVIDENCE, 1.

PERPETUITY.—See VESTED INTEREST, 2.

PLEADING (AT LAW).

1. To an action for money due, a plea on equitable grounds, that the plaintiff assigned the debt to D., who notified the defendant; that the assignment still remained in force; that the defendant was still liable to pay D.; that the action was not brought for the benefit nor with the consent of D.; and that, if the plaintiff recovered, the defendant would still be obliged to pay D.,—is good.—*Jeffs v. Day*, Law Rep. 1 Q. B. 372.

2. To an action against sureties on a bond conditioned for the due performance by A. of his duties as collector of poor rates and sewer rates, the bond to continue in force if A. held either office separately, the breach assigned being that A. had not paid over money received in both capacities, a plea that before breach an act was passed increasing A.'s duties as collector of sewers' rates, and under which he was chosen collector of main drainage rates by those from whom he held his other appointments, is bad, as not affording an answer to the liability for A.'s breaches of duty as collector of poor rates.—*Skillett v. Fletcher*, Law Rep. 1 C. P. 217.

See AWARD, 2; BANKRUPTCY, 5; EQUITY PLEADING; VARIANCE.

POWER.

1. A testatrix having a life interest in consols, with a power of appointment among her children, by will made in 1864, containing no reference to the power, bequeathed all money belonging to her in consols, and all money she might die possessed of, to her two surviving children and to a stranger to the power, in equal shares. She had no consols or other stock, except that subject to the power. *Held*,

that there was a valid exercise of the power as to the share bequeathed to the children, and that the other share went to those entitled in default of appointment.—*Gratwick's Trusts*, Law Rep. 1 Eq. 177.

2. B. by a will in 1858, specifically gave freehold, copyhold, and leasehold property, and gave all other real and personal property of which he should die possessed, or have power to dispose, on certain trusts. By a voluntary settlement in August, 1862, B. conveyed all his freehold property on trust, after his death, for E. for life, with remainder as B. should "by his last will or any codicil thereto" appoint, and, in default of appointment, to E. in fee; and by the same settlement he disposed of all his leasehold and personal property. In November, 1862, B. by a last will, not mentioning any former will, appointed, under the power in the settlement, an annuity out of his freehold property, and devised all his copyholds, but made no other disposition of his property. Probate of both wills was granted. *Held*, that the testator having made the will of 1862 after the settlement that the will of 1858 could not operate as an execution of the power.—*Pettinger v. Ambler*, Law Rep. 1 Eq. 510.

3. A testator devised real estate to his daughter for life, without impeachment of waste, save as mentioned, with restriction against alienation, and remainders in tail and fee over. The daughter had power to charge the property to a limited extent; and she and each tenant in tail had power to lease any of the lands for twenty-one years, with a reservation to work mines. Then followed a reservation of all timber for twenty years from testator's death; and the will continued, that it was the testator's will and desire that it should be lawful for his daughter to work or contract for, lease or let out to be worked and wrought, all the mines,—the "issues, proceeds, and profits," to be paid to trustees for the purchase of lands. The daughter leased for twenty-one years (or for sixty, if she had authority) all the mines on certain farms, with liberty to the lessee to do all acts in or upon the said farms that should be deemed expedient in working the mines devised, or the mines belonging to any other person, making satisfaction to the tenants for damages. The lessee covenanted to pay rent and certain royalties, and to work the mines in a workmanlike manner, &c. In ejectment by the remainder man against the lessee, the jury having found that the covenants were usual and reasonable, it was *held* by *Erle, C. J.*, and *Willes, J.*, that the daughter had unconditional power to lease the mines, with no other limitation than that