

## DIGEST OF ENGLISH LAW REPORTS.

act complained of was the joint act of the defendant and T., and that the plaintiff had recovered judgment for said act against T., and that said judgment still remained in force. *Held*, that said judgment, though unsatisfied, was a bar to the present action.—*Brinsmead v. Harrison*, L. R. 7 C. P. (Ex. Ch.) 547; s. c. L. R. 6 C. P. 534; 6 Am. Law Rev. 496.

JURISDICTION.—See BILL IN EQUITY.

LAPSE.—See LEGACY, 4.

## LEASE.

All coal and other mineral veins under certain lands were demised by lease containing the clause, "they, the lessees, their executors, administrators, and assigns, making reasonable satisfaction to the lessors, their heirs and assigns, for the damage done to them respectively by the surface of their lands being covered with rubbish, or otherwise injured, as well by the injury done to the lands of the said lessors in sinking and getting the said mines and minerals, as for such damage or injury as might be done or caused in the dwelling-houses or other buildings of the said lessors by getting mines of coal or other minerals under any of the dwelling-houses or other buildings of the said lessors, according to the covenant thereafter contained. By said covenant, in case of the construction of said buildings, the lessees were to repair the same, and for each acre damaged to pay a certain sum, to be determined by arbitration, on payment of which sum the lessees were to have the free use, possession, and enjoyment of the land damaged for the remainder of the term." *Held*, that by the lease the lessees held the mines absolutely without being obliged to leave support for the surface, but that they must pay damages in case of injury by bringing down the surface, as provided in the lease.—*Smith v. Darby*, L. R. 7 Q. B. 716.

2. Two partners were assignees of a lease containing a covenant not to assign without the consent of the lessor. One partner subsequently assigned his interest to the other without the lessor's consent. *Held*, a breach of the covenant.—*Varley v. Coppard*, L. R. 7 C. P. 505.

See CHARGE; MINES, 1.

## LEGACY.

1. A testator left a legacy to the Kent County Hospital. In fact there was no such hospital; but there were three hospitals, called the Kent and Canterbury Hospital, the West Kent General Hospital, and the Kent County Ophthalmic Hospital. *Held*, that the testator must be presumed to have intended a general hospital, and that the two former of said three hospitals must divide the legacy.—*In re Alchin's Trusts*, L. R. 14 Eq. 230.

2. A testator gave £500 to his sons T., J., and P., and £200 to his daughter; and he directed that neither of his said sons to whom he should have made advances should receive said legacy without bringing such advances into hotchpot. The residue of his personal estate the testator divided between his sons

C., T., J., and P., and his daughter. The testator, before the date of the will, had advanced to C. £500, £170, and £53; and to T., after said date, £380 and £500. *Held*, that the advances to C. (who had received no legacy of £500) should not be taken into account against him; but that the £380 advanced to T. should be deducted from his share of the residue, and that his legacy of £500 was satisfied by the advance of that sum.—*In re Peacock's Estate*, L. R. 14 Eq. 236.

3. A testator bequeathed all his property to his sister S. for life; and after her decease to be equally divided among his brothers and sisters. The testator added, "should any of my brothers or sisters die (leaving issue) during the lifetime of my sister S., the share which would have been theirs is to be equally divided among their children." *Held*, that the children of a brother of the testator, who died fifteen years before the date of the will, were entitled to share in the estate.—*Adams v. Adams*, L. R. 14 Eq. 246.

4. A testator gave personal estate to trustees "to pay and transfer the same unto" certain parties "in equal seventh shares, as tenants in common, and to their respective executors, administrators and assigns, to whom I bequeath the same accordingly; and I declare that such shares shall be vested interests in each of my said residuary legatees, immediately upon the execution hereof, and that the shares of such of them as are married women shall be for their own separate use and disposal." *Held*, that the share of a married woman who died after the date of the will, but before the testator, lapsed, and did not go to her husband.—*Browne v. Hope*, L. R. 14 Eq. 343.

5. Bequest to E. to accumulate during the lifetime of her husband, and upon his death, "should there be any child or children living, that the property should be secured for their benefit, and for that of their mother." *Held*, that the property should be settled upon E. for life, with remainder to her children.—*Combe v. Hughes*, L. R. 14 Eq. 415.

6. A testator bequeathed to his wife "all sums of money that have come into my hands as part of her patrimony, being in fact a charge upon the property; this, as well as all just debts and obligations due from me, to be duly discharged as the first act of my executors." *Held*, that the wife's patrimony was to be treated as a debt, and a charge on the specifically devised property as well as on the rest of the property. A bequest to a widow of the "free occupancy" of a house confers on her the right to let it. A devise to the testator's children of "all the income of real property" carries the fee. Direction that any property might be sold except Glen-coe, "a property I wish to remain in the family as long as there is a lineal son, descendant of the forenamed sons; and if no lineal male descendant from the eldest, the next to be entitled, and so on." *Held*, a devise of an estate in tail male in possession to the eldest son.—*Manno v. Greener*, L. R. 14 Eq. 456.