

RECENT DECISIONS.

in the *Halton* case, 11 C. L. J. 273, to the same effect are approved of.

Passing to the English Law Reports for October, now received, we have before us Appeal Cases, vol. 6., p. 489-656; 17 Chancery Div., p. 721-844; 7 Queen's Bench Div. p., 397-484; and 6 Probate Div., p. 117-126.

Of the first of these a great part is occupied by the *Dysart Peerage Case*, which illustrates the following feature of Scotch Law, viz., that although that law accepts the continued cohabitation of a man and woman as spouses, coupled with the general repute of their being married persons, as complete evidence of their having deliberately consented to marry, yet in order to sustain that inference their cohabitation must be within the realm of Scotland. It may be well also to allude to a point of evidence which arose in the case. B. married C. *in facie ecclesie* in 1851, had issue, and died in 1872. In an attempt by A. to set up a previous irregular Scotch marriage, a witness gave evidence that B. told him repeatedly after 1851, that A. was his wife and not C. The Lords held, on principles common both to English and Scotch law, that such evidence was not admissible.

The remaining four cases are all appeals to the Privy Council, one from Natal, two from New South Wales, and one from Canada. The first-named is a fresh authority from the supposition that the Government revenue cannot be reached by a suit against a public officer in his official capacity, thus corroborating *Macbeath v. Haldimund*, 1 T. R., 180; *Gidley v. Lord Palmerston*, 3 Brod. & B. 285. Their Lordships felt it unnecessary to determine whether the Natal Court would have had jurisdiction if a petition of right had been presented, and the Crown had ordered that right should be done: but they observe *passim* that no practice of the Court can confer upon it any power or jurisdiction beyond that which is given to it by the charter or law by which it is constituted.

The two cases from New South Wales re-

lated to the provisions of the Act relating to the alienation of Crown lands in that colony. The second, however, *Turner v. Walsh* (p. 636), also decides, in accordance with former cases, that from long-continued user of a way by the public, whether land belongs to the Crown or to a private owner, dedication from the Crown or private owner, as the case may be, in the absence of anything to rebut the presumption, may and ought to be presumed; and their Lordships held that the same presumption from user should be made in the case of Crown lands in the colony of N. S. Wales, apart from the Crown Lands Alienation Act, though the nature of the user and the weight to be given to it vary in each particular case.

The Canadian appeal is *The Connecticut, Mutual Life Insurance Co. v. Moore* (p. 644) and is an appeal from the judgment of the Supreme Court, delivered Dec. 13, 1879, reversing a judgment of our own Court of Appeal (3 App. 230), affirming a rule made by the Court of Q. B. (41 U. C. R. 497). It may be remembered that in this case the defendants obtained a rule *nisi*, calling upon the plaintiff in an action upon a policy of life insurance to shew cause why a verdict obtained by her should not be set aside and a nonsuit or verdict entered for them pursuant to the Law Reform Act (R. S. O., c. 50., secs. 264, 283), or a new trial had between the parties, said verdict being contrary to law and evidence, and the finding virtually for the defendant; and for misdirection in that the jury had not been directed on the evidence to find for the defendant. The Court of Queen's Bench (41 U. C. R. 497) ordered the verdict for the plaintiff to be set aside, and verdict to be entered for the defendant, while the Supreme Court eventually reversed this order and restored the verdict for the plaintiff, being of opinion that, under the Supreme Court Act, 38 Vict., c. 11., sec. 22, they had no power to direct a new trial on the ground of the verdict being against the weight of evidence.