

DIGEST OF ENGLISH LAW REPORTS.

2. A claim by prescription to a toll in a market of 1s. on every wagon may be sustained as a claim to a reasonable toll, which might vary in amount with the value of money.—(Exch. Ch. reversing the decision of the Queen's Bench), *Lawrence v. Hitch*, Law Rep. 3 Q. B. 521.

PRINCIPAL AND AGENT—See LANDLORD AND TENANT, 1; MASTER AND SERVANT; PLEDGE, 2; SHIP, 3.

PRINCIPAL AND SURETY—See LANDLORD AND TENANT, 2.

PRIORITY.

1. A trustee, a solicitor, saw in a newspaper the notice of a petition in insolvency by his *cestui que trust*, and acted on the information. Held, under the circumstances, that a subsequent assignee of the *cestui que trust*, who had given to the trustee formal notice of the assignment to him, did not thereby acquire priority over the assignee in insolvency, who did not give formal notice till afterwards.—*Lloyd v. Banks*, Law Rep. 3 Ch. 488.

2. A having made a mortgage to B, and a subsequent equitable charge in favor of the plaintiff, requested the defendants to pay off the first mortgage. This was done, a discharge by B was endorsed on the first mortgage, and the title deeds handed to the defendants, and A at the same time executed a mortgage to the defendants, who had no notice of the plaintiff's charge. Held, that the defendants had the better equity, and therefore that the rule, *Qui prior est tempore potior est jure*, did not apply, but that the defendants could not tack a further advance which they had made at the time of paying off the first mortgage, and which was included in the mortgage to them.—*Pease v. Jackson*, Law Rep. 3 Ch. 576.

3. A trustee of funds, invested in a mortgage in his name, deposited the deeds, without notice of the trust, to secure an advance to himself. Held, that the *cestuis que trust* were entitled to priority over the equitable mortgagee, and to delivery up of the deeds.—*Newton v. Newton*, Law Rep. 6 Eq. 135.

4. A ship owner, having mortgaged the ship to T. subsequently effected a charter party on her, the freight to be paid "on unloading and right delivery of the cargo, as customary," and "freight to be collected by the charterers." During the voyage, the owner assigned the freight under this charter party to B. The ship arrived, and most of the cargo, which was a general one, was delivered to the consignees; but, before the whole had been delivered, T took possession. Held, that T, having taken

possession before any freight had become payable from the charterers to the owners, was entitled to the freight, in priority to B.—*Brown v. Tanner*, Law Rep. 3 Ch. 597.

5. The owner of a ship mortgaged it to G, who transferred it to W by way of sub-mortgage; both the mortgage and the transfer were registered. In March, 1865, G paid off W's sub-mortgage, but the mortgage was not retransferred. In May, 1865, the mortgagor gave G another mortgage to secure an amount which included the money due on the original mortgage, and this mortgage was registered. In October, 1865, the second mortgage was transferred to B. In March, 1866, G agreed that W, who had no notice of the transfer to B, should hold the original mortgage, to secure an account current between them, and in July, 1866, B registered his transfer. Held, that as W became, in March, 1865, a trustee of the original mortgage for G, and as the money secured by it was included in the subsequent mortgage which was transferred to B before the new agreement with W, B had priority over W.—*Bell v. Blyth*, Law Rep. 5 Eq. 201.

PROMISSORY NOTE—See ALTERATION; DISCHARGE.

RAILWAY.

1. A railway company are bound to take every reasonable care to prevent danger to their passengers from cattle coming on to the line, but they are not bound to maintain fences sufficient to keep the cattle off the line under all circumstances.—*Buxton v. N. E. Railway Co.*, Law Rep. 3 Q. B. 549.

2. Where a railway company have diverted a road, *ultra vires*, but with a *bona fide* view to the convenience of the public, a court of equity will not compel them to replace the road, if the result will be to cause greater inconvenience to the public or to the complaining section of the public. In such a case, an information was dismissed, but without prejudice to a proceeding at law.—*Attorney General v. Ely, &c., Railway Co.*, Law Rep. 6 Eq. 106.

See ACTION, 2; ULTRA VIRES.

REMAINDER—See DEVISE.

REPEAL OF STATUTE—See STATUTE, REPEAL OF.

RES ADJUDICATA—See DIVORCE, 1.

REVOCATION OF WILL.

1. A testator, having a power to charge certain land with £7,000, to be divided among his children as he should appoint, and, in default, among them equally, by his will charged the land with the £7,000, and directed that £4,000, part thereof, should be paid to his son, and the remainder to his three daughters equally. By