

his lifetime indicated an intention to reside in Germany. It was contended that if the domicile was held to be German the will would be ineffectual; but it was established by *In re Steer*, 3 H. & N. 594, that even an expressed wish to retain the domicile of origin would not prevail against evidence which proved the *animus manendi* in the domicile of choice; still less could a desire to retain rights according to the law of one country prevail in opposition to the fact that the man was domiciled in a different country. The most important fact, although not conclusive, was the purchase of the house in Darmstadt, which appeared to him to be strong *prima facie* evidence of an intention to settle in Germany. On the evidence, he was of opinion that the testator had acquired a German domicile at the time of his will and of his death, and that if he had any intention of abandoning that domicile, he failed to carry that intention into effect.

LIBELS ON THE DEAD.

At Cardiff, on February 10, before Mr. Justice Stephen and a special jury, the case of *Regina v. Ensor* was heard. It was an indictment against the defendant, a solicitor practising at Cardiff, charging him with having, on July 23, 1886, maliciously published a certain libel intending to injure the character of one John Batchelor, knowing the same to be false, by reading and publishing the same to one Taylor and others, and by publishing it in the *Western Mail*. A second count charged him with having done so intending to throw scandal on the character and memory of the said John Batchelor and to injure his family and posterity. A third count charged that the libel had a tendency to create a breach of the peace, and that it did cause an assault to be committed. A fourth count alleged that it had a tendency to excite the friends and relatives of the said John Batchelor to revenge by a breach of the peace, and that it did cause an assault to be committed by the sons of the said John Batchelor. The prosecution, alleged that the defendant, who was in the habit of writing articles for the *Western Mail* under the name of "Censor," had gone to

the office of this newspaper on the evening of July 23, and read a suggested epitaph on John Batchelor before the staff. On the next morning there appeared in the columns of the paper the following statement:—"Our esteemed correspondent "Censor" sends us the following suggested epitaph for the Batchelor statue: 'In honour of John Batchelor, a native of Newport, who in early life left his country for his country's good; who on his return, devoted his life and energies to setting class against class, a traitor to the Crown, a reviler of the aristocracy, a hater of the clergy, a panderer to the multitude; who, as first chairman of the Cardiff School Board, squandered funds to which he did not contribute; who is sincerely mourned by unpaid creditors to the amount of 50,000*l.*; who at the close of a wasted and misspent life, died a pauper, this monument, to the eternal disgrace of Cardiff, is erected by sympathetic Radicals. Owe no man anything.' The innuendo "that he had been transported as a felon" was alleged upon the words "left his country for his country's good."

Mr. Justice STEPHEN, after hearing counsel for the prosecution, directed an acquittal on grounds which he stated he had put into writing. These were as follows:—

There can be no question that if John Batchelor were living, the language applied to him would be libellous. But he died more than three years before it was published, and this raised the question whether and in what cases, a libel upon a dead man is, by the law of England, a crime. The authorities upon the subject are few. Practically, there are only three. The latest is the case of *Regina v. Labouchere*, 53 Law J. Rep. Q. B. 363; L. R. 12 Q. B. Div. 320. It has, in reality, little to do with the matter, as the question there was whether an *ex officio* information should be granted for such a libel, and it was held that the fact that the person said to have been libelled was dead was a reason why the Court should not in its discretion grant an extraordinary remedy, which is granted only in special cases. It does not follow that, because the Court in that case refused to grant an *ex officio* information for various reasons of which that