

## RECENT ENGLISH DECISIONS.

dence of rumours and suspicions to the same effect as the defamatory matter complained of; (iii) evidence of particular facts tending to show the character and disposition of the plaintiff. He then expresses his conclusions: "From this review of the authorities it will be seen that there is a considerable conflict of opinion, and before discussing them further it seems desirable to consider the principles underlying them. (i) Speaking generally the law recognizes in every man a right to have the estimation in which he stands in the opinion of others, unaffected by false statements to his discredit; and if such false statements are made without lawful excuse, and damage results to the person of whom they are made, he has a right of action. The damage, however, which he has sustained must depend almost entirely on the estimation in which he was previously held. He complains of an injury to his reputation, and seeks to recover damages for that injury; and it seems most material that the jury who have to award those damages should know if the fact is so that he is a man of no reputation." He then observes that the objection of hardship to the plaintiff is removed under the present system of pleading, which requires that all material facts shall be pleaded, for a plaintiff who has notice that general evidence of bad character will be adduced against him, can have no difficulty whatever, if he is a man of good character, in coming prepared with friends, who have known him, to prove that his reputation has been good. "On principle, therefore, it would seem that general evidence of reputation should be admitted, and on turning to the authorities previously cited, it will be found that it has been admitted in a great majority of those cases, and that its admission has been approved by a great majority of the judges who have expressed an opinion on the subject. (ii) As to the second head or evidence of rumours and suspicions to the same effect as the defamatory matter complained of, it would seem that on principle such evidence is not admis-

sible, as only indirectly tending to affect the plaintiff's reputation. . . Upon the whole, both the weight of authority and principle seems against the admission of such evidence. (iii) As to the third head or evidence of facts and circumstances tending to shew the disposition of the plaintiff, both principle and authority seems equally against its admission. At the most it tends to prove not that the plaintiff has not, but that he ought not to have a good reputation, and to admit evidence of this kind is in effect, as was said in *Jones v. Stevens*, 11 Price, 235, to throw upon the plaintiff the difficulty of shewing an uniform propriety of conduct during his whole life. . Among all the cases which have been received there is not one which can be cited in support of the admissibility of this evidence."

## DISCOVERY—SHORT-HAND NOTES—PRIVILEGE.

In the next case, *Norden v. Defries*, p. 508, the point in question was as follows. In an action of *Norden v. Norden*, an issue had directed to determine whether the present plaintiff had or had not executed a certain agreement. While the suit of *Norden v. Norden* was pending, the plaintiff commenced the present action, charging the defendants with a conspiracy to defraud the plaintiff, and to utter the agreement as binding upon him, knowing it to be a forgery. The plaintiff now resisted, on the ground of privilege, production for the inspection of the defendants of a print of the shorthand notes of the evidence, which had been taken for the plaintiff upon the hearing of a case of *Norden v. Norden*. The Court upheld the plaintiff. They say:—"We think that it does appear that the document came into existence with a view to and in contemplation of the present action, and in order to assist the plaintiff, who is a solicitor, in its conduct and prosecution. If the plaintiff has a cause of action against the defendants, it is manifest that it would be most important for the plaintiff to be enabled to submit to his counsel a full and precise statement of the evidence given by the defendants and their witnesses at the former trial. We