

after his arrival there he formed a connection with an Englishwoman, Martha Powis, by whom he had three illegitimate children—Sarah, born 5th Feb., 1744, a son born 11th Feb., 1745, and another daughter born 14th Nov., 1747—who were all baptized shortly after birth under their father's name and as his children. Sarah married, and was the ancestress of the Vaucher family. On 22nd May, 1749, Marc Thomegay married an Englishwoman named Elizabeth Woodhouse; of this marriage one child was born, who was the parent of Caroline E. Grove, the intestate. Elizabeth Woodhouse died 26th March, 1752, and on 2nd Feb., 1755, Marc married Martha Powis, by whom he had previously had the three illegitimate children above mentioned, and by this marriage he had four children, only one of whom left issue, and she was the ancestress of the Falquet family. In 1773 a special Act of Parliament was passed naturalising several foreigners, among them Marc's brother, but not himself. Martha Powis died in 1772. In the year 1774, Marc Thomegay presented a petition to the Council of Geneva, apparently in the interest of his three illegitimate children, in which he stated his illicit intercourse with Martha Powis and the birth of three children, that his intention to marry her was thwarted, and he married Miss Woodhouse, and her death and his subsequent marriage with Martha Powis. The petition further stated that the petitioner was informed that according to the laws of Geneva, his native country, subsequent marriage legitimized illegitimate-born children, and praying that the Council might grant him record of his proofs, etc., so that no one might question the legitimacy of his three children in Geneva, his native country. An order was granted by the Council granting record accordingly. Marc Thomegay made his will in English form in 1779, describing himself as of Tottenham, in the County of Middlesex, and died the same year. According to the laws of Geneva, children born out of wedlock were legitimated by the subsequent marriage of their parents. In order to determine the conflicting claims of the parties therefore, it became necessary to determine the domicile of Marc Thomegay at the time of his marriage with Martha Powis. Stirling, J., held that his domicile at the time of his marriage with Martha Powis was English, and therefore that the descendants of Sarah were not entitled to inherit as next of kin, and this decision was affirmed by the Court of Appeal (Cotton, Fry and Lopes, L.J.), who were of opinion that the whole evidence showed that Marc had come to England with the intention of changing his domicile, and that the Act of Parliament and the petition to the Geneva Council did not displace this evidence. As Lopes, L.J., observed, the non-naturalisation of Marc, while it indicated a wish to preserve his nationality, in no way disproved his having an English domicile. And Cotton, L.J., says at p. 232: "What is really necessary, I think, is that the father should at the time of the birth of the child be domiciled in a country allowing legitimation, so as to give to the child the capacity of being made legitimate by a subsequent marriage. But it is the subsequent marriage which gives the legitimacy to a child who has, at its birth, in consequence of its father's domicile, the capacity of being made legitimate by a subsequent marriage." And on the next page he says: "In my opinion the domicile must give a capacity to the child of being made legitimate, but then the domicile at the time of the marriage,