

ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH DECISIONS.

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RAILWAY—INTERFERENCE WITH ROAD—PENALTY FOR NOT SUBSTITUTING SUFFICIENT ROAD—RAILWAY ACT, 1845 (8 & 9 Vict., c. 20), ss. 53, 54—(RAILWAY ACT, 51 VICT., c. 29, s. 183 (D.))

In *Llewellyn v. Vale of Glamorgan Ry. Co.* (1898) 1 Q.B. 473, an appeal was had from a decision of Wright, J. (1897) 2 Q.B. 239. The action was brought to recover a penalty from a railway company for not providing a sufficient road in place of a private road at a place where the same was interfered with by their railway. The English Railway Act imposes a penalty of £20 a day, payable "to the owner" in case of a private road, for every day during which the substituted road shall not be made. The plaintiff was only a part owner of the road interfered with, and the defendants contended that all other co-owners were necessary parties. The Court of Appeal (Smith, Chitty and Collins, L.JJ.) overruled this objection, and held that any owner of any part of the road interfered with might recover the penalty for his own use, and that only one penalty was recoverable. The Dominion Railway Act (51 Vict., c. 29), s. 183, only applies to highways, but the penalty thereby imposed would appear also to be single.

ELECTION—RECOUNT OF VOTES.

Monkswell v. Thompson (1898) 1 Q.B. 479, was a case stated under the Municipal Corporations Act. The point presented for the decision of the Court was a very simple one. There were eight candidates for a school board election. The first five were declared elected. A petition was presented against the return of the candidate who stood fifth on the list, on the ground that the candidate who stood sixth on the list had really the larger number of votes, and a recount was ordered of the votes cast for these two candidates, when it appeared that the 6th candidate had really the larger number of votes,