

DIGEST OF ENGLISH LAW REPORTS—REVIEWS.

DIGEST.

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FOR NOVEMBER AND DECEMBER, 1868, AND JANUARY, FEBRUARY, MARCH, AND APRIL, 1869.

(Concluded from page 278.)

RAILWAY.

1. A company were empowered by a statute, passed in 1832, to make and use a railway for the passage of wagons, engines, and other carriages. The company ran passenger trains drawn by locomotive steam-engines, having taken all reasonable precautions to prevent the emission of sparks. The plaintiff's haystack having been fired by sparks from an engine, *held*, that, as the company had not express powers by statute to use locomotive steam-engines, they were liable at common law for the damage.—*Jones v Festiniog Railway Co.*, Law Rep. 3 Q. B. 733.

2. A railway carriage in which the plaintiffs (husband and wife) were passengers to R., on reaching R. overshot the platform on account of the length of the train. The passengers were not warned to keep their seats, nor was any offer made to back the carriage to the platform. After several persons had got out, the husband did so without any communication with the railway's servants, and the wife, standing on the steps of the carriage, took his hands and jumped down, and in so doing strained her knee. There was a foot-board between the steps and the ground which she did not use, but there was no evidence of carelessness on her part in the manner of descent. It was daylight. In an action against the railway company for the injury: *Held* (Exch. Ch. *per* BYLES, MELLOR, MONTAGUE SMITH, and HANNEN, JJ.; KEATING, J., *dissentiente*), that there was no evidence for the jury of negligence in the defendants, and that the plaintiffs' negligence contributed to the accident.—*Siner v. Great W. Railway Co.*, Law Rep. 4 Ex. 117.
See NEGLIGENCE, 2; VENDOR'S LIEN.

RAPE.

A woman permitted the prisoner to have connection with her, under the impression that it was her husband. *Held*, that in the absence of evidence that she was unconscious at the time the act of connection commenced, it must be taken that her consent was obtained, though by fraud, and that therefore the prisoner was not guilty of rape.—*The Queen v. Barrow*, Law Rep. 1 C. C. 156.

RECEIVER—See LUNATIC, 1.

RECORD—See EVIDENCE; PRIORITY, 2.

REFEREE—See AWARD, 3.

REGISTRATION—See EVIDENCE; PRIORITY, 2.

RELEASE—See PRINCIPAL AND SURETY, 2.

REMAINDER—See CROSS REMAINDERS; TENANT FOR LIFE AND REMAINDER-MAN.

RES ADJUDICATA—See DIVORCE, 4.

REVOCATION OF WILL.

The 1 Vict. c. 26, s. 22, enacts that no will which shall be in any manner revoked shall be revived by a codicil, unless the codicil "shows an intention to revive the same." Where a testator made a will, and then made a second will revoking the first, *held*, that the first will was not revived from the mere fact that a codicil subsequent to both wills imported to be a codicil "to the last will and testament of me (the testator) which bears date" the date of the first will, if there is no other evidence of intention to revive the first will.—*Goods of Steele*, Law Rep. 1 P. & D. 575.

SALE.

1. The plaintiff, in England, sent an order to P., in Brazil, to buy cotton for him. P. bought cotton, and shipped it in the defendant's vessel; the invoice was made out as shipped on account and risk of the plaintiff, but the bill of lading was made deliverable to P.'s order or assigns. P. wrote a letter to the plaintiff, advising the shipment, saying that P. had drawn on the plaintiff for the amount in favor of P.'s agent, "to which we beg your protection." The letter purported to enclose the invoice and the bill of lading. The invoice was enclosed, but the bill of lading, indorsed in blank by P., was sent with the bill of exchange to P.'s agents in England. The agents sent the two documents to the plaintiff, who retained the bill of lading, but returned the bill of exchange unaccepted, on the ground that P. had not complied with his order. The plaintiff presented the bill of lading to the defendant, but he, being advised by P.'s agents, refused to deliver it to him, and said that he should deliver it to P.'s agents on a duplicate bill of lading. On a case stated, the court having power to draw inferences of fact: *Held*, that P.'s intention was that the property should not pass till the bill of exchange was paid, and that therefore the defendant was justified in his refusal.—*Shepherd v. Harrison*, Law Rep. 4 Q. B. 196.

2. On the 9th of May, the plaintiff, through his brokers, contracted to sell shares in a company to the defendants, stock jobbers, the set-