

DIGEST OF ENGLISH LAW REPORTS.

DEDICATION.

As far as living memory went, the occupier of a field, crossed by a foot-path, had been wont, in the due course of farming, to plough it up, and so to destroy the foot-path for the time being. There was no evidence of the existence of the foot-path before living memory. *Held*, that the owner must be presumed to have dedicated this way to the public, subject to the right of ploughing it up.—*Mercer v. Woodgate*, L. R. 5 Q. B. 26.

DEED—*See* FORGERY; MARRIAGE SETTLEMENT; REGISTRY OF DEEDS.

DESERTION.

A husband, not having cohabited with his wife, or provided a home for her, gave her £100 on her agreeing not to molest him in future by insisting on her right to live with him. They never cohabited afterwards. *Held*, that the husband had not been guilty of desertion.—*Buckmaster v. Buckmaster*, L. R. 1 P. & D. 713.

DISCOVERY.

A. filed a bill against B., C., and others, stating that B. married C., by whom he had "one son only, namely," A., and that A. was "the first and only son of" B., and as such was entitled to certain property as tenant in tail in remainder; that an indenture, to which B. was a party, recited that there was, in 1860, "one child only of the marriage of the said B. and B.," meaning A.; that the defendants, except C., pretended that A. had no interest in the estate, but refused to discover the grounds of such pretences, and that the estate had been sold. Prayer for account and other relief. Interrogatives filed. Plea to all the relief and discovery that A. was not the son of B. *Held*, that, taking the bill and interrogatories together, the plaintiff was entitled to discovery (as to the deed, and as to the allegation that he was a child, and the only one of the marriage), and the plea was overruled; but not on the ground that it was negative or to the person.—*Wilson v. Hammonds*, L. R. 8 Eq. 323.

See PRIVILEGED COMMUNICATION, 1.

DISTRESS—*See* ANNUITY.

DIVORCE—*See* CONNIVANCE; COSTS, 5; CRUELTY; DESERTION.

DOMICILE.

Domicile of choice is a conclusion of law from the fact of a man fixing voluntarily his sole or chief residence in a particular place with an intention of continuing to reside there for an unlimited time. It is not a question of nationality.

One whose domicile of origin was Scotch, and who for many years held a medical appointment in India, was held to have acquired a domicile in Jersey on the facts. (Residence for twenty-five years until death; provisions for favorite grandson residing there; removal of children to a tomb there; stock of wine; making a will under advice that it would not be good unless he were domiciled in Jersey.)—*Haldane v. Eckford*, L. R. 8 Eq. 631.

DOWER.

A testator, after directing his debts to be paid by his executors, devised his real and personal estate, subject as aforesaid, to trustees upon certain trusts, being partly for the benefit of his widow. *Held*, that the widow was deprived of her right to dower by the Dower Act, 3 & 4 Will. IV. c. 105, s. 9.—*Rowland v. Cuthbertson*, L. R. 8 Eq. 466.

EASEMENT—*See* DEDICATION.

ENTRIES—*See* EVIDENCE, 2.

EQUITABLE ASSIGNMENT—*See* PRIORITY.

EQUITABLE CONVERSION—*See* LEGACY DUTY.

EQUITABLE MORTGAGE—*See* INTEREST.

EQUITABLE PLEA—*See* SET-OFF.

EQUITY—*See* COMPANY, 1; FOREIGN OFFICE; FRAUD.

EQUITY PLEADING AND PRACTICE.

1. To protect a bill from demurrer for want of equity it is not enough to allege generally that the defendant holds a fund in trust for the plaintiff. The facts must be set forth which establish that conclusion.—*Grenville-Murray v. Earl of Clarendon*, L. R. 9 Eq. 11.

2. Whether an order of court is necessary to enable a married woman who is sued as a *feme sole* to file a plea of coverture, *quære*.—*Heygate v. Thompson*, L. R. 8 Eq. 354.

See APPEAL; CONTEMPT; COSTS, 1-3; DISCOVERY; ILLUSORY SUIT; PARTITION, 1; PATENT, 1; RAILWAY, 3; TRUST, 2.

ESTOPPEL—*See* AWARD, 1, 3; BOND.

EVIDENCE.

1. Evidence that B. had previously paid a bill accepted in his name by A., A. not having any general authority to accept bills for B., is immaterial, in the absence of an allegation that the plaintiff discounted the bill on the faith of the signature being that of B.—*Morris v. Bethell*, L. R. 4 C. P. 765.

2. Entries over a century old made by the steward of a predecessor in title of the plaintiffs, and setting forth payments to him of rent for certain land from predecessors of the defendants, are admissible to prove the plaintiff's title.—*Giffard v. Williams*, L. R. 8 Eq. 491.