

DIGEST OF ENGLISH LAW REPORTS.

while still young, and lived there till his death in 1872. He was a shopman till 1851, when he formed a partnership with an Englishman in the French form. He married an English Protestant in 1852, in a Protestant church, and without Catholic rites, though he was a Catholic. His wife died the next year. In 1853, he formed another partnership with an Englishman. In 1863, the partnership was renewed for ten years longer. In 1856, he married a Protestant whose father was French and mother English. They had three children, all brought up as Protestants, though the eldest, a son, was baptized in the Catholic form. For his second marriage, he got a certificate from the French consul. Beyond that, he took no step to have his marriage conform to French law. Before his first child was born, he made a will, invalid by French law, giving all his property to his wife. In 1872, he made another will, making use of provisions of English law and repugnant to French law. In the conduct of his business, the Paris branch was managed by an agent, and he only went there for visits of a few weeks at a time. There were in evidence some depositions of witnesses, that they had often heard him express an intention and a desire to return to France, and that in the Franco-German war he was patriotic and wished to join the French army. He refused to be naturalized, never leased a house for more than three years and said there were many advantages in being an alien, among them freedom from serving on the jury. *Held*, chiefly on the strength of his marriages, that he had acquired an English domicile and abandoned his domicile of origin, and his estate was to be administered without regard to the law of France.—*Doucet v. Geoghegan*, 9 Ch. D. 441.

EASEMENT.—See RAILWAY, 1.

ECCLESIASTICAL LAW.

1. The Court of Arches has no jurisdiction to suspend a clerk in orders, *ab officio et a beneficio*, for disobedience to a monition from that court, to abstain from certain illegal practices in the services of the Church. Rule to Lord Penzance, official principal of the Arches Court of Canterbury, and one Martin, to show cause why a writ should not issue to prohibit that court from enforcing such a degree of suspension against the Rev. Alexander H. Mackonochie, clerk. *Held*, by COCKBURN, C. J., and MELLOR, J. (LUSH, J., dissenting), that the writ should issue. (Cf. *Martin v. Mackonochie*, L. R. 3 P. C. 409, and *Hebbert v. Purchas*, L. R. 4 P. C. 301.)—*Martin v. Mackonochie*, 3 Q. B. D. 730.

2. In a criminal suit under the Church Discipline Act (3 and 4 Vict. c. 86), the Arches Court had suspended the delinquent clerk *ab officio et a beneficio*, for six months, for certain illegal practices in the church service, and a motion was made to enforce the suspension, on the ground that the clerk had repeated the offence; and, while the case was pending, the Queen's Bench, in *Martin v. Mackonochie* (3 Q. B. D. 730), decided that such suspension was beyond the jurisdiction of the Arches

Court. *Held*, that though the Arches Court protested against that decision, it would "hold its hand" and "decline to proceed to compulsory measures at present." (Cf. *Coombe v. Edwards*, L. R. 4 A. & E. 390; 2 P. D. 354.—*Coombe v. Edwards*, 3 P. D. 103.

ESTOPPEL.—See COMPANY 1; MORTGAGE, 1.

EVIDENCE.

1. S., with two friends, F. and D., went to the L. railway station to see a friend off for D., on the up-train from K. to D. at 11.30 p.m. As the train for D. was coming up, S. crossed the road to the ticket-office for his friend's ticket. When he had got it, and started to return, the D. train had come in, and was stationary, on the up-track. He crossed again, this time below the train, at the L. end, so that, when he was behind it he could not see either track at the D. end of the station. As he stepped from behind the D. train, upon the down-track, an express train for K. struck and killed him. F. and D. and the friend, who remained on the side opposite the ticket-office, swore they heard no whistle, though they were very near, and D. said he saw the train and heard it rumble, but heard no whistle. Employees of the road said they heard the whistle, and the engineer of the express train said he whistled as usual, according to a rule of the road. There was a notice-board at the point where S. crossed, warning the public not to cross there, and the railway had power to prohibit crossing there. But it appears that the public disregarded the notice, and the railway never enforced the rule, but acquiesced in the violation of it. *Held*, that, on this state of facts, the case was properly left to the jury. The jury, not the court, is to pass on contradictory and conflicting evidence. Lords HATHERLEY, COLERIDGE, and BLACKBURN dissented, on the ground that, in the most favourable view of the evidence, there was not enough uncontradicted to entitle the plaintiff to a verdict, and, in such a case, it was for the court to decide, and direct a verdict for defendant or a nonsuit.—*The Dublin, Wicklow and Wexford Railway Co. v. Slattery*, 3 App. Cas. 1155.

2. The owners of the ship G. brought an action against the ship H., for damages from collision. The mate of the H. made an entry in the log, of the circumstances of the collision, at the time, and her master made a deposition, when he reached port, before the receiver of wrecks, as provided by the Merchant Shipping Act, 1854 (17 and 18 Vict. c. 104, § 448). Both the mate and the master had since died. *Held*, that the log-book and the deposition were both inadmissible in evidence.—*The Henry Coxon*, 3 P. D. 156.

3. E., who was impecunious, consented to a decree as to a sum due from him to G. Subsequently a compromise was made through their respective solicitors, by which G. agreed to accept a less sum in settlement, on the ground that E. was poor, and that his father, who was believed to have property, had refused to assist him, or to have anything to do with him. Before this compromise was signed, E's father