

DIGEST OF ENGLISH LAW REPORTS.

the £50 given for that purpose was insufficient.—*In re George (an Infant)*, 5 Ch. D. 837.

See REQUEST 1.

LIFE ESTATE.—See WILL, 2.

LIFE INSURANCE.—See EVIDENCE 1.

LIMITATIONS. STATUTE OF.—See STATUTE OF LIMITATIONS.

MARINE INSURANCE.—See INSURANCE.

MARRIED WOMAN'S PROPERTY ACT.—See HUSBAND AND WIFE, 2.

MASTER AND SERVANT.

1. The defendant's servant, with his master's horse and waggon, was employed to take out beer for defendant to customers, and on his way home he called for empty casks, for which on delivery to his master he received 1d. apiece. On March 5, 1875, he took the horse and waggon, without his master's knowledge, and carried a child's coffin to a relative's house. On his way home he picked up a couple of empty casks, and subsequently negligently came in contact with the plaintiff's cab, and damaged it. On his arrival home, he received his usual fee for the empty casks. *Held*, that he was not in the discharge of his ordinary duties when the injury happened, and the master was not liable.—*Rayner v. Mitchell*, 2 C. P. D. 357.

2. The plaintiff was employed by a contractor, engaged by the defendants to do certain work on their road, in a dark tunnel on a curve, where trains were passing at full speed without any signal every ten minutes, and the workmen could not know of the approach of the train until it was within thirty yards of them. There was just room enough between the rail and the wall for the men to get out of the way. No look-out was stationed, though it appeared that, on a previous occasion, when repairs were going on, there had been one. Plaintiff had worked in this place a fortnight, and, while reaching out across the track for a tool, he was struck and hurt by a train of defendants. The jury found negligence in defendants, and awarded £300 damages. *Held*, on appeal (MELLISH and BAGGALLAY, L.J.J. dissenting), reversing the decision of the Court of Exchequer, that the plaintiff must be held to have been aware of the extraordinary risk he was running, and the defendants were not liable for injury resulting from his voluntary exposure.—*Woodley v. The Metropolitan District Railway Co.*, 2 Ex. D. 384.

See CONSTRUCTION, 1; NEGLIGENCE, 1.

MISDIRECTION.—See EVIDENCE, 1.

MORTGAGE.

A., a first mortgagee, and plaintiff in this suit, foreclosed, making the mortgagor and N., the second mortgagee, parties. Subsequently, the mortgagor went into bankruptcy, and A. purchased the equity from the trustee. The trustee assigned the mortgaged property to A. "in consideration of

£1,380, retained by the said" A. "in full satisfaction of the said sum" due, and of £20 paid the trustee by A., subject to the aforesaid claim of the said" N. The value of the property was not more than £1,380; and N. claimed that the effect of the above transaction was to extinguish A.'s claim, and to let in his own second mortgage as a first encumbrance on the property in A.'s hands. *Held*, that there was a plain intention to keep the first incumbrance alive, and that N. could not be let in. *Toulmin v. Steere* (3 Mer. 210), distinguished. *Held* also, by HALL, V.C., that a correspondence between the solicitors of A. and the trustee, concerning the purchase, was admissible as evidence as to the intention to keep alive A.'s mortgage.—*Adams v. Angell*, 5 Ch. D. 634.

NEGLIGENCE.

1. The defendant, Cox, was the owner of premises on which he contracted with the other defendants to build a house. The outside of the house was finished, and the scaffolding which had been erected to protect the public on the sidewalk had been taken down. The servant of a sub-contractor employed to plaster the interior, moved a tool too near the edge of a plank before an open window, and the tool fell out and hurt the plaintiff passing under. The jury found that the scaffolding was properly removed, but found the defendant contractors negligent in not putting up some other protection and found for the plaintiff. *Held*, that the defendants were not liable, the accident not being one which they could have foreseen. *Semble* that, if anybody, the sub-contractor was liable.—*Pearsons v. Cox et al.*, 2 C. P. D. 369.

2. The plaintiff, a waterman looking for work, saw a barge belonging to defendant being unlawfully navigated on the Thames, by one man alone, and remonstrated with the man in charge of it, hoping thereby to be employed to assist. The latter referred him to defendant's foreman, and plaintiff went to defendant's wharf about the matter. While there, a bale of goods fell upon him through the negligence of defendant's servants, and injured him. *Held*, that the plaintiff could maintain an action for injuries.—*White v. France*, 2 C. P. D. 308.

See LANDLORD AND TENANT, 3; MASTER AND SERVANT, 1, 2.

NOTICE.—See FORFEITURE, 1; LEASE, 2.

OBSCENE PUBLICATION.—See PLEADING AND PRACTICE.

PARTIAL LOSS.—See INSURANCE, 3.

PARTIES.—See COPYHOLD.

PATENT.

The licensee under a patent cannot call in question the validity of the patent during his license, but he may show that the matters in respect of which royalties are claimed of him by the patentee are not covered by the patent, after the analogy of a tenant, who, though he may not impeach his land-