

of action in any other State. A judgment by confession is an instance of a party voluntarily submitting himself to the jurisdiction of the Court whereby competency is acquired to deal with the matter submitted.

*Held*, that a judgment recovered in the State of Pennsylvania, after the defendant had ceased to be a resident of that State, upon a warrant of attorney executed there, was valid, and that the Courts there had jurisdiction to deal with the matter. Judgment of MACMAHON, J., affirmed.

*W. E. Middleton*, for the appeal. *E. H. Smythe*, Q.C., contra.

Boyd, C., Ferguson, J., Robertson J.]

[Dec. 10, 1900.

SCRIVER v. LOWE.

*Negligence—Contributory negligence—Nonsuit—Undisputed facts—Inference.*

In actions for negligence the power of the judge to nonsuit on the ground of contributory negligence is restricted to cases where it is plain and indisputable that the injury of which the plaintiff complains would not have occurred but for his own want of proper care. Where the facts or the proper inference from the facts, are in dispute, the case must go to the jury.

And where the defendants negligently left a hole in the floor of a room unguarded, and the plaintiff, going into the room, saw the danger and at first avoided it, but, on turning to go out again, lost sight of it, stepped into the hole and was injured:

*Held*, these facts being undisputed, that it was properly left to the jury to say whether she was negligent or not.

*Washington*, Q.C., for plaintiff. *McBrayne*, for defendants.

Trial of Actions, Street, J.]

[Dec. 10, 1900

REYNOLDS v. PALMER.

*Wills—Widow's election—Evidence of election—Ignorantia juris.*

A testator left to his wife all his personal estate absolutely, and his real estate for life or so long as she remained his widow, subject to which he devised his lands in specific parcels to his sons, and died in 1889. After his death his widow remained in possession of the land and supported the children, and built an addition to the house, and married again in 1891. She and her husband in 1893 took a lease of the property from the executors to expire when the eldest son came of age. On this latter event happening in 1899 the parcel of land devised to him was conveyed to the latter by the executors, who then granted a new lease of the balance to the second husband which was now current.

*Held*, that the widow was put by the will to her election.