arguments he may have a half dozen, more or less; and among them there will doubtless be one good one, and perhaps more, on which the case really reposes, while the rest are ranged along for show. Now, many lawyers do not distinguish the enunciations of judges on such occasions from legal principles. They find, indeed, that when they take these sayings for principles they are liable to be led astray; and so, growing, as they suppose, wiser by age and experience, they abandon all faith in the law as a science, and look upon it as a mere congregation of precedents, and upon those who represent it to be anything more as simple and visionary, not practical men like themselves. As well might a man who had been led into a bog by a jack-o'-lantern throw up his faith in the sun and the stars.

J. P. B.

ABSTRACTS OF RECENT ENGLISH DECISIONS.

Domicile—Anglo-Colonial Military Service—Practice—Administration of Estate.—F., of Scotch family, born in Scotland about 1766–7, married his cousin, (the plaintiff,) a Scotchwoman, in 1787, accepted a service in the East India Company's service, and went to India in 1787, being then under age. The plaintiff soon after followed him out to India, and they both remained there, he serving under his commission until 1808, when they returned to England on furlough. A paternal estate in Scotland, A., having descended upon F., on the death of his father in 1794, he proceeded thither, and gave directions to build a mansion there. In 1812, his furlough having expired, F. and the plaintiff returned to India, where he remained, serving under his commission, until 1822. The plaintiff returned to England in 1816. In 1822, F. retired upon half-pay, and took up his abode in London, at first by a weekly hiring, but in 1823 he took a long lease, which he subsequently from time to time renewed, and which was still in existence at his decease, of the premises in Sloane street. His circumstances being very greatly improved, he kept a fitting establishment of servants at Sloane street, but no fitting establishment at A., beyond a cook and gardener, and additional servants hired by the month, in Aberdeen, upon the occasions of his visits to Scotland, which, however, were very frequent, viz: six months in each year; but from 1823 to 1830 the plain-

tiff only went there twice, and had never been there since 1830. F. exhibited great attachment to his patrimonial estate at A., and to Scotland generally; described himself in his deeds, and in his will, and generally, as "of A."; settled the estate in strict settlement, with a condition of residence; had a strong room in the mansion at A., where he kept his muniments of title, and his will and codicils—all but his last codicil made very shortly before his death. The will was dated in 1840, and was in the Scotch form, and made at Aberdeen. The testator was a Commissioner of Taxes and Justice of the Peace in Scotland, and generally exhibited great attachment to that country. On the other hand, he never took his wife, the plaintiff, to reside in Scotland, although he had an illegitimate family there; and from 1841 to his decease, in 1851, he never revisited Scotland, being prevented by ill health, although till 1844 he never relinquished the idea of returning. The testator died in 1851, in Sloane street: *Held*, that by going to India, and serving there under his commission, the testator abandoned his Scotch domicile of birth, and acquired an Anglo-Indian domicile; that this was not abandoned by his returning to England on furlough, and residence in England in 1808–12, but that it was abandoned upon his definite retirement in 1822; and that under the circumstances, the testator then acquired an English domicile, which he never afterwards abandoned.

It was thus unnecessary to determine what would be the effect of the continued residence in Sloane street during the last ten years of the testator's life, on the supposition that he had re-acquired a Scotch domicile in 1822–3; but if that had been necessary to be decided, the Court would have held that the permanent residence in London did not amount to a settled intention to change his domicile.

The following Canons were laid down:—

A man cannot, at least in reference to personal estate, have two domiciles.

Every person who is born in wedlock acquires by birth the domicile of his father, except perhaps a few excepted cases, as the Gipsies.

The domicile of an infant cannot be changed by his own acts.

A new domicile cannot be acquired unless by a concurrence of intention and act.

The strong intention of abandoning one domicile is not sufficient to displace it, until the new one be acquired.

The mere possession of real estate, not coupled with residence, is of no value whatever with reference to domicile.

The fact of a commission being held by a person in India or elsewhere, and his residence there accordingly, and fulfilment of the duties of his commission, is sufficient to give an Indian or Anglo-Indian, &c., domicile. Such an officer residing for four years in Great Britain on furlough, liable to be called on to return, and having the intention of returning if called on, and actually returning to active duty in India, retains his Anglo-Indian domicile, notwithstanding acts, such as building a mansion, &c., in Scotland, in the interim.

There does not appear to be any instance where a married man, having two habitual residences, in one of which his wife and principal establishment reside, and the wife not going to the other residence, and he having no such proper establishment there, has not been held to be domiciled in that residence in which the wife resides.

Where a person has two residences, in one of which he can, and in the other cannot, reside during the whole year, on the ground of ill health, and increasing years will tend to augment and establish the difference, that will be considered a good reason for holding the former residence to be the principal one, and the domicile; the question not being similar to that of his being compelled, on the score of health, to go for a time to a place not in any way his residence, *e. g.* to Madeira. *Forbes* vs. *Forbes*, 18 Jur. 642; V. C. Wood.

Will—Construction—Statute of Distributions—Husband and Wife.—Bequest in trust for the person or persons who would, at the death of a feme covert, be entitled as next of kin or otherwise, to her personal estate, under the statute of distributions, and in the same proportions and manner—husband of the feme covert not entitled. *Milne* vs. *Gilbert*, 18 Jur. 611. L. JJ. of App.

Will—Construction of the word "Unmarried."—Bequest to the son and unmarried daughter of G. D. G., as he (G. D. G.) might by will direct, and failing such direction, to them equally, the word "unmarried" applies to the date of the will of the original testator, and the bequest is not affected by subsequent marriage in his lifetime, or after. *Hall* vs. *Robertson*, 18 Jur. 635, before L. J.J., overruling S. C. 17 Jur. 574.

Will—Devise to heir male of Freehold and Gavelkind Estates.—Devise of freehold and gavelkind estate to any male heir, and his heirs in strict tail male—heir male at common law entitled, as *persona designata*, to whole. Lord Coke's opinion (Co. Litt. 10a,) has never been overruled. *Thorp* vs. *Owen*, 18 Jur. 641. V. C. Stuart.