

land the court has no power to order the issue of a commission to take evidence for the purpose of an arbitration where no action has been brought. In Ontario there is express statutory provision enabling the court to do so: see R.S.O., c. 52, s. 49.

PRACTICE—MARRIED WOMAN—ACTION AGAINST MARRIED WOMAN—SPECIALLY INDORSED WRIT—LEAVE TO DEFEND ON PAYMENT OF MONEY INTO COURT—MONEY PAID INTO COURT BY DEFENDANT, RIGHT OF PLAINTIFF TO.

*Bird v. Barstow* (1892), 1 Q.B. 94, is one of the few cases in which a married woman's effort to escape from liability on her contract appears to have been unsuccessful. The action was brought on a covenant made by the defendant, a married woman; the writ was specially indorsed, and an application was made for leave to sign judgment notwithstanding the defendant's appearance. On this motion the defendant obtained leave to defend on payment of £500 into court to answer the plaintiff's claim. The action was tried and judgment given for the plaintiff, who naturally enough supposed that he would be entitled, as a matter of course, to resort to the £500 for the liquidation of the amount recovered: but Wright, J., decided at the trial that the money must remain in court pending an inquiry whether the defendant had separate property available in execution. The Court of Appeal (Lord Esher, M.R., and Fry and Lopes, L.J.J.), however, held that Wright, J., was wrong, and ordered the money to be paid out to the plaintiff.

PRACTICE—FOREIGN PARTNERSHIP—"CARRYING ON BUSINESS WITHIN THE JURISDICTION"—SERVICE OF FOREIGN FIRM.

In *Grant v. Anderson* (1892), 1 Q.B. 108, the defendants were a foreign firm, all the members of which were domiciled and resident in Scotland. They employed an agent in London, who occupied an office there, the rent of which he paid himself. He kept samples of defendants' manufactures on view, and his duty was to receive and transmit orders therefor, but he had no authority to conclude contracts for the defendants except upon express instructions. It was held by the Court of Appeal that the defendants did not carry on business within the jurisdiction, and could not, therefore, be sued in the firm name nor served with the writ as a firm under the amended Rules.

PRACTICE—JUDGMENT AGAINST MARRIED WOMAN—INTERLOCUTORY COSTS PAYABLE TO MARRIED WOMAN—SET-OFF OF COSTS—ORD. LXV., R. 27, S-S. 21—(ONT. RULE 1204).

In *Pelton v. Harrison* (1892), 1 Q.B. 118, the plaintiffs recovered judgment against the defendant, a widow, in respect of a debt contracted by her whilst under coverture, and subsequently obtained an order for the appointment of a receiver of certain property which, during the defendant's coverture, had been her separate property, subject to a restraint on anticipation. This order was set aside with costs, and the plaintiffs asked that their costs might be set off against the costs payable by the defendant in the action to the plaintiffs. This was resisted on the ground that while the costs payable to the plaintiffs were, only payable out of the defendant's separate property, the costs payable to the defendant were payable to her as a *feme sole*. But the Court of Appeal (Lopes