

COMMENTS ON CURRENT ENGLISH DECISIONS.

The Law Reports for January comprise (1892) 1 Q.B., pp. 1-124; (1892) P., pp. 1-17; and (1892) 1 Ch., pp. 1-58.

LIQUOR LICENSE ACT, 30 & 36 VICT., c. 94, s. 13--(R.S.O., c. 194, s. 73). OFFENCE—PERMITTING DRUNKENNESS ON PREMISES—SALE OF LIQUOR TO DRUNKEN PERSON.

*Edmunds v. James* (1892), 1 Q.B. 18, is a decision under the English Licensing Act of 1872, which is identical in terms with R.S.O., c. 194, s. 72. The respondent was convicted of permitting drunkenness on his premises, the facts proved being that he had sold liquor to a drunken person. The appellant contended that though he might have been convicted of selling liquor to a drunken person, yet that selling liquor to a drunken person did not constitute the offence of permitting drunkenness on his premises; but the court (Mathew and A. L. Smith, JJ.) agreed that the conviction was right, that the making more drunk a man who was already drunk was a permitting drunkenness on the premises.

SALE OF GOODS—MARKET OVERT—CUSTOM OF LONDON—SALE TO SHOPKEEPER.

*Hargreave v. Spink* (1892), 1 Q.B. 25, although a decision not having any direct bearing in this Province, nevertheless deserves attention from the fact that the doctrine regarding sales in market *overt* is discussed. The defendants were jewellers having a shop in the city of London, at which they purchased the jewels of Mrs. Hargreave, the theft of which gave rise to the recent scandalous case of *Osborne v. Hargreave*. The defendants endeavored to protect themselves on the ground that by the custom of the city of London their shop was a market *overt*; but, it appearing that the purchase was not made in the shop adjoining the street, but in an upper show-room over the shop, the court (Wills, J.) held that this was not a market *overt* within the custom. The learned judge also discusses, but does not decide, whether the shop itself would be a market *overt* for the purpose of buying as well as selling goods of the kind usually kept therein for sale. The inclination of his opinion is against a shop in London being a market *overt* for buying goods by the shopkeeper. This custom of London, as the learned judge points out, is in derogation of the common law. In this Province, we presume, there can be no question that no such custom exists, and that, consequently, no sale in any shop could be protected as a sale in market *overt*.

PRACTICE—APPEAL—ORDER ALLOWING CRIMINAL PROSECUTION FOR LIBEL—"CRIMINAL PROCEEDINGS."

*In re Pulbrook* (1892), 1 Q.B. 86, Mathew and A. L. Smith, JJ., hold that an order giving a person leave to institute a criminal prosecution for libel under the Libel Amendment Act, 1888, is a "criminal proceeding," and therefore not appealable.

PRACTICE—SUBMISSION TO ARBITRATION—POWER OF COURT TO ISSUE COMMISSION TO TAKE EVIDENCE.

*In re Shaw & Ronaldson* (1892), 1 Q.B. 91, may be referred to simply to point out that it does not apply in Ontario. It appears from this case that in Eng-