COMMENTS ON CURRENT ENGLISH DECISIONS.

The Law Reports for March comprise (1891) 1 Q.B., pp. 317-430; (1891) P., pp. 129-162; (1891) 1 Ch., pp. 201-398; and (1891) A.C., pp. 1-80.

BAILOR AND BAILEE—ESTOPPEL—JUS TERTII.

Rogers v. *Lambert* (1891), 1 Q.B. 318, was an action of detinue by bailors against their bailees for the goods bailed, which consisted of a quantity of copper. It was admitted that the plaintiffs before action had sold the copper to a firm of Morrison & Co., who had paid the price of it, and that the plaintiff had indorsed the delivery orders to Morrison & Co., but before action the plaintiffs had notified the defendants not to deliver the copper to any one but themselves. The defendants did not profess to be defending the action for, or by the authority of, Morrison & Co., but they admitted that they were defending it in their own interest. By an order of the Court the copper was sold, and the proceeds paid into Court. Day, J., before whom the action was tried, held, on the above state of facts, that the plaintiffs had no interest, and gave judgment for the defendants, and ordered the money to be paid out to them, which was done; but, on appeal, the Court of Appeal (Lord Esher, M.R., and Lindley and Lopes, L.JJ.) came to the conclusion that the law on the subject had been correctly laid down by Blackburn, J. ("a judge who knew more about these matters than any one else," as Lord Esher remarks) in *Biddle* v. *Bond*, 6 B. & S. 225, viz., that as between a bailor and bailee, under an ordinary contract of bailment, the bailee must, if he desires to defend an action for the non-delivery of the goods upon the demand of the bailor, show that he has already delivered them upon a delivery order authorized by the bailor, or he may ask for an interpleader order, or he may at his own risk, as regards the plaintiff, say, "I defend this action on behalf of A.B., and I say that he is the person really entitled to the goods," and if he takes the latter course he must not only allege the title of the third party but must prove it, and if he does not prove it he has no defence. To use the language of Pollock, C.B., in *Thorn* v. *Tilbury*, 3 H. & N. 537, a bailee can set up the title of another only "if he defends upon the right and title, and by the authority of," that person. The judgment of Day, J., therefore, was reversed, and the plaintiffs not objecting, the money was ordered to be repaid into Court, and liberty was given to any person claiming the copper to apply for its payment as if he were a party to the action, and the defendants were directed to serve notice of the order upon Morrison & Co., and all persons known by them to claim any interest in the copper or money.

PRACTICE—NEW TRIAL—STAY OF EXECUTION.

In *Monk* v. *Bartram* (1891), 1 Q.B. 346, the action had been tried by Grantham, J., with a jury, and judgment given in favor of the plaintiff; a stay of execution had been applied for and refused. The defendant now applied to the Court of Appeal to stay the execution pending an appeal to that Court, but that Court (Lord Esher, M.R., Bowen and Fry, L.JJ.) held that to warrant the granting of