

COMMENTS ON CURRENT ENGLISH DECISIONS.

The law reports for December comprise 25 Q.B.D., pp. 521-568; 15 P.D., pp. 189-219; 45 Chy. D., pp. 285-639; 15 App. Cas., pp. 449-568.

PRACTICE—FIRM SUED—SERVICE OF WRIT ON FIRM—SUBSEQUENT SERVICE ON PARTNER—JUDGMENT AGAINST FIRM FOR DEFAULT OF APPEARANCE—SUBSEQUENT APPEARANCE BY PARTNER—ORD. IX. R. 6; ORD. XII., R. 15; ORD. XLII., R. 10 (ONT. RULES 265, 288, 876).

In *Alden v. Beckley*, 25 Q.B.D., 543, a partnership was sued in the firm name. The firm was first served by serving the writ on the person having the management of the business, and five days afterwards a person claimed to be one of the partners was also served. Judgment was signed against the firm for non-appearance; and subsequently and within eight days after service on him, the person served as a partner entered an appearance and then moved to set aside the judgment against the firm as having been entered prematurely; and the Divisional Court (Pollock, B., and Grantham, J.), affirming Day, J., held that the judgment must be set aside. From this case, therefore, it appears, that where a firm is sued and service is effected on the firm by serving the manager, and individuals claimed to be partners are also served, judgment cannot properly be signed against the firm until the time has expired for the individuals who have been served to appear, and that this time runs, not from the service on the firm, but from the service on themselves individually.

SUBMISSION TO ARBITRATION—REFUSAL OF PARTY TO APPOINT ARBITRATOR—COURT HAS NO POWER TO COMPEL PARTY TO APPOINT ARBITRATOR—9 & 10 W. 3, C. 15, S. 1; 3 & 4 W. 4, C. 42, S. 39 (R.S.O., c. 53, s. 16).

In *re Smith & Nelson*, 25 Q.B.D., 545, an attempt was made to induce the court to compel a party who had entered into an agreement to refer a dispute to arbitration, to appoint an arbitrator. The application was successful so far as the Divisional Court (Lord Coleridge, C.J., and Wills, J.) was concerned; but on appeal the order was reversed, the Court of Appeal (Lord Esher, M.R., and Lindley and Bowen, L.JJ.) being clearly of opinion that the Court had no statutory jurisdiction to make any such order, and that although where arbitrators have been appointed by the parties they can not afterwards revoke their authority (R.S.O., c. 53, s. 16), yet that there was no means of compelling a specific performance of an agreement to appoint an arbitrator either at law or in equity, and the provision of the Arbitration Act of 1889 (52 & 53 Vict., c. 49, s. 1), that a submission, unless a contrary intention is expressed therein, shall be irrevocable except by leave of the court or a judge, had not in any way enlarged the powers of the court in that direction.

DAMAGE—TUG, AND VESSEL IN TOW—COLLISION WITH THIRD VESSEL THROUGH NEGLIGENCE OF TUG—LIABILITY OF VESSEL IN TOW.

In *The Quickstep*, 15 P.D., 196, the Divisional Court of the Probate Division came to the conclusion that no general rule can be laid down as to the liability of a vessel in tow, for a collision between it and another vessel, occasioned by the