RECENT ENGLISH DECISIONS.

The January numbers of the *Law Reports* comprise 18 Q. B. D., pp. 1-161; 12 P. D., pp. 1-31, and 34 Chy. D., pp. 1-87.

ARBITRATION AND AWARD — VALUATION — APPLICATION TO SET ASIDE AWARD.

The first case we think deserving of attention is *In re Carus-Wilson and Greene*, 18 Q. B. D. 7, in which the difference between a mere valuation and an award is emphasized. On the sale of land one of the conditions of sale provided that the purchaser should pay for the timber on the land at a valuation, and that for the purpose of such valuation that each party should appoint a valuer, and that the valuers thus appointed should, before proceeding to act, appoint an umpire; and that the two valuers, or, if these disagreed, the umpire, should make the valuation. The two valuers failed to agree, and the umpire made the valuation. The agreement for sale having been made a rule of Court, the vendor, being dissatisfied with the valuation, applied to the Divisional Court to set it aside, which application was refused on the ground that it was a mere valuation, and not an award on an arbitration, and this decision is now affirmed by the Court of Appeal. The principle of law involved in the case is thus stated by Lord Esher, M.R., at p. 9:

> If it appears from the terms of the agreement by which a matter is submitted to a person's decision, that the intention of the parties was, that he should hold an inquiry in the nature of a judicial inquiry, and hear the respective cases of the parties, and decide upon evidence laid before him, then the case is one of an arbitration. The intention in such cases is that there shall be a judicial inquiry, worked out in a judicial manner. On the other hand, there are cases in which a person is appointed to ascertain some matter for the purpose of preventing differences from arising, not of settling them when they have arisen, and where the case is not one of arbitration but of mere valuation.

Applying this principle to the case before him, he says:

> My reason for holding that the umpire here was not an arbitrator is, that he was, in my opinion, merely substituted for the valuers, to do what they could not do, viz.: fix the price of the timber. He was not to settle a dispute which had arisen, but to ascertain a matter, in order to prevent disputes arising.

CHARTER PARTY—EXCEPTED PERILS—COLLISION—FREIGHT.

In *The Sailing Ship "Garston" Company* v. *Hickie*, 18 Q. B. D. 17, the Court of Appeal affirmed a decision of Grantham, J. A charter-party provided that the ship should load a cargo of coal, and deliver the same at the port of discharge, at a freight of so much per ton (the act of God, etc., and all and every other dangers and accidents of the seas, rivers, and navigation always excepted), the freight to be paid two-thirds in cash ten days after the vessel's sailing, and the remainder in cash on the right and true delivery of the cargo, agreeably to bills of lading, less cost of coal delivered short of bill of lading quantity. A collision took place, owing to the negligence of those in charge of the other vessel, whereby a part of the cargo was lost; and it was held that the collision was "a danger or accident of navigation" within the meaning of the charter-party, and, therefore, that the ship owners were not liable in respect of the non-delivery of the part of the cargo so lost, but that the charterers were entitled, nevertheless, under the charter-party, to set off the cost of the coal so undelivered against the balance of freight payable at the port of discharge.

CHATTEL MORTGAGE—FUTURE BOOK DEBTS.

In *Official Receiver* v. *Tailby*, 17 Q. B. D. 25, the question was whether a chattel mortgage which purported to assign to the mortgagee "all the book debts which might, during the continuance of the security, become due and owing to the mortgagor," was valid. The judge of the County Court of Birmingham held it to be invalid. This decision, however, was reversed by a Divisional Court of the Queen's Bench Division, but the latter decision was reversed by the Court of Appeal—that Court holding that the description of the debts was too vague. Lindley, L. J., says at p. 31: "I do not say that an assignment of future book debts must necessarily be too vague; but when there is no limitation of them with regard to any particular business, I think the assignment is too vague," and in this view all the judges in Appeal agreed.

TRIAL AT BAR—ACTION IN WHICH CROWN INTERESTED—VENUE.

In *Dixon* v. *Farrer*, 18 Q. B. D., 43, the Court of Appeal affirmed the decision of the