

said defendant in this action." The Master in Chambers made the order asked on the 28th day of February, 1889. An appeal was argued before Mr. Justice Street on the 8th March, 1889. In giving judgment, he said: "The exercise of jurisdiction in ordering examinations of parties under this rule must be carefully guarded. It may be an advantage to have this examination of R. I. D., the solicitor, as it is an advantage to every litigant to know the evidence of witnesses before trial. Nothing more is shown in support of this application than could be shown in the great majority of cases in the courts. It is not a sufficient ground for obtaining the examination, as contended by plaintiff's counsel, that R. I. D. might have been added as a party originally. The order must be reversed, with costs in any event to the defendant."

COMMENTS ON CURRENT ENGLISH DECISIONS.

THE Law Reports for February comprise 12 Q.B.D., pp. 125-238; 14 P.D., pp. 17-26; and 40 Chy. D., pp. 77-215.

MUNICIPALITY—RIGHT TO CARRY WATER MAINS THROUGH PRIVATE PROPERTY—REPORT OF SURVEYOR.

The only point for which *Lewis v. Weston*, 40 Chy. D. 55, can be considered an authority is this, that where a municipality is empowered by Act of Parliament to carry water mains through private property, if on the report of their surveyor it is necessary so to do; the surveyor must be the duly appointed surveyor of the municipality, and the report of a surveyor who is appointed surveyor to the board upon the death of its regular officer, "until a further permanent surveyor is appointed," is not a surveyor of the municipality within the meaning of the Act, and the municipality in this case having acted on a report of a surveyor temporarily appointed as above mentioned, was restrained by Stirling, J., by injunction from proceeding further with the work, and this, notwithstanding that the surveyor who had been subsequently appointed by the municipality, made affidavit that he concurred in the report of the temporary surveyor: the learned judge declaring that as the defendants were seeking to avail themselves of the powers conferred by the statute to take lands in derogation of the plaintiff's rights, they must follow strictly the terms of the power, and their proceedings being based on report of one who was not their surveyor within the meaning of the Act, were consequently null and void.

LANDLORD AND TENANT—NUISANCE—COVENANT FOR QUIET ENJOYMENT—INJUNCTION—DAMAGES.

Fenkins v. Jackson, 40 Chy. D. 71, was an action brought by a tenant against his landlord to restrain a nuisance under the following circumstances: The landlord let a flat in a building to the plaintiff for the purpose of his business as an auctioneer, giving the usual covenant for quiet enjoyment; subsequently he gave a license to his co-defendant to use a floor above that leased to the plaintiff, for the purpose of dancing and other entertainments. The plaintiff complained that the dancing was a nuisance, and that the visitors to the upper flat obstructed him in the enjoyment of his premises. Kekewich, J., held that the annoyance caused