COMMENTS ON CURRENT ENGLISH DECISIONS.

The *Law Reports* for October comprise 21 Q. B. D. pp. 349-413; and 39 Chy. D. pp. 1-83.

PRISON—GOVERNOR OF PRISON—WARRANT OF COMMITMENT—FALSE IMPRISONMENT.

Henderson v. *Preston*, 21 Q. B. D. 362, is an action in which the plaintiff sues the governor of a prison for false imprisonment under the following circumstances: The plaintiff was, on the 24th August, summarily convicted of an offence and sentenced to pay a fine, or in default to be imprisoned for seven days. He was arrested the same day, but was not lodged in prison until 25th August. The defendant kept the plaintiff in custody during 31st August. The plaintiff contended that the term of imprisonment began on 24th August and expired on 30th August. But the Court of Appeal (Lord Esher, M.R., Lindley and Bowen, L.JJ.), without determining whether the imprisonment began on the 24th or 25th August, held that the defendant had acted within the terms of the warrant, and was therefore protected and not liable to the action.

NEGLIGENCE—MASTER AND SERVANT—PERSON INTRUSTED WITH SUPERINTENDENCE—EMPLOYERS' LIABILITY ACT, 1880—(R. S. O. c. 141, s. 2, s.s. 1; s. 3, s.s. 2).

In *Kellord* v. *Rooke*, 21 Q. B. D. 367, the Court of Appeal (Lord Esher, M.R., Lindley and Bowen, L.JJ.) affirmed the decision of the Divisional Court (19 Q. B. D. 585), noted *ante* p. 10. The point in the case was whether a workman who was the foreman of a gang, and as such took part in the manual labour performed by the gang, could be said to be a "person whose sole or principal duty is that of superintendence, and who is not ordinarily engaged in manual labour" (see R. S. O. c. 141, s. 2, s.s. 1), and the court was clear that he did not come within that definition.

NEGLIGENCE—MASTER AND SERVANT—EMPLOYERS' LIABILITY ACT, 1880—(R. S. O. c. 141, s. 3, s.s. 1)—DEFECT IN MACHINERY—DANGEROUS MACHINE.

Walsh v. *Whiteley*, 21 Q. B. D. 371, is another case under the Employers' Liability Act, which, by the way, bids fair to be as fruitful a source of litigation as the Statute of Frauds. In this case, the Court of Appeal lays down the rule that the mere fact that a machine is dangerous to a workman employed to work with it, does not show that there is a defect in the condition of the machine within the meaning of the Act (R. S. O. c. 141, s. 3, s.s. 1). Because the Act expressly provides (see R. S. O. c. 141, s. 5, s.s. 1) that unless the defect arose from, or had not been discovered or remedied, owing to the negligence of the employer or some person in the service of the employer, and intrusted by him with the duty of seeing that the machinery was in proper condition, the workman is not to be entitled under the Act to any right of compensation against the employer, and these two sections must, therefore, be read together. In this case the plaintiff was employed by the defendants to work a carding machine. Part of the machine consisted of a wheel and pulley, upon which, while in motion,