

spect of matters which could not be pleaded as set-off, and the plaintiff recovers on his claim, and the defendant on his counter-claim a sum exceeding that which the plaintiff recovers on his claim, the claim and counter-claim for the purposes of taxation of costs, should be treated as separate actions, and the costs in each taxed in favour of the successful party, subject to a deduction for costs of any issues in which he has not succeeded. And in such a case the court considered it immaterial on the question of taxation, whether the judgment is drawn up in form for the plaintiff for the sum recovered on his claim, and for the defendant for the sum recovered on the counter-claim, or, whether judgment is given for the defendant for the balance. In coming to this conclusion the court followed its decision in *Hewitt v. Bluner*, 3 Times L. R. 221, which Lord Esher stated was correctly reported.

HUSBAND AND WIFE—WIFE LIVING APART FROM HUSBAND—LIABILITY OF HUSBAND FOR NECESSARIES SUPPLIED TO WIFE—ADULTERY—CONNIVANCE BY HUSBAND.

In *Wilson v. Glossop*, 20 Q. B. D. 354, it is satisfactory to find that the Court of Appeal (Lord Esher, M.R., Fry and Lopes, L.L.J.), have seen fit to affirm the judgment of the Queen's Bench Divisional Court, 19 Q. B. D. 379, noted *ante* vol. 23, p. 362. The action was brought for necessities supplied to a wife who was living apart from her husband without means of support. The husband resisted the claim on the ground that his wife had committed adultery; but it being established that the husband had connived at the commission of the offence, it was held that it afforded no defence.

ARBITRATION—APPOINTMENT OF ARBITRATORS INVALID—AWARD—MAKING AWARD RULE OF COURT.

In *re Gifford and Bury Town Council*, 20 Q. B. D. 368, an application was made to a Divisional Court (A. L. Smith and Charles, JJ.) to make a submission to arbitration, and an award, a rule of court. The application was refused, because the arbitration was under an Act which required that the appointment of the arbitrators should be under the common seal of one of the parties, and under the hand of the other. The appointments so made were by the Act required to be delivered to the arbitrators, and then to be deemed a submission to arbitration by the parties making the same. One of the arbitrators, however, in this case, was appointed by one party under their common seal; but the other arbitrator was appointed by the other party, but not by writing under his hand. The arbitrators, so appointed, not being able to agree, appointed an umpire who made an award. The court held that the appointment of one of the arbitrators not being under the hand of the party appointing him, there was no valid submission to arbitration, that the appointment of the umpire, and the award, were consequently also invalid, and therefore neither the submission nor the award could be made a rule of court. In the course of their judgments the learned judges both draw attention to the difference of practice formerly prevailing at law and in equity on this subject; in the former it being the practice only to make a submission a rule of court, whereas in equity the practice was to make awards