under the authority of the Jud. Acts, a firm had no such existence as enabled it to sue, or made it liable to be sued. It was a mere name under which certain persons as partners carried on their business, and the individual partners as such were alone capable of suing and being sued. The orders under the Jud. Act, which have the effect of an Act of Parliament, have no doubt varied the law in this respect; the question is, to what extent? In my opinion they apply only to persons who are, at the time of action commenced, partners in an existing firm, not to persons who have been partners in a firm which has been dissolved. In my opinion such persons can no longer properly be called partners. * * * As therefore the members of a dissolved firm are, in my opinion, not properly described as 'partners' and 'partnership' does not properly describe the relationship betweem them, the words 'partners' and 'partnership' ought not in the Orders to be held to apply to those who were formerly, but are not partners, or to a dissolved partnership, unless there is something in the Orders to show that these words are intended to be so applied. I can find no such intention."

BRETT, L. J., dissented from the other Judges, holding (i.) that under O. 16, r. 10 (Ont. O. No. 100) the firm name in which persons "liable as co-partners" may be sued is the name of the firm which existed when the debt was contracted; and a partnership though dissolved is by the rule considered still to exist for the purpose of suing or being sued in respect of transactions which occurred whilst it was in full force; (ii.) that the phrase "where partners are sued in the name of their firm" in O. 9, r. 6, (Ont. O. No. 40) must by the same course of reasoning, refer to the firm which existed when the debt was contracted, and the writ, therefore, may be served upon any one of the partners of that firm; and by the latter part of that rule such service is good service upon the partners of the firm which existed when the debt was contracted; (iii.) that although under O. 42, r. 8 (Ont. O. No. 346) execution could not issue against the alleged debtor in the present case, the judgment was none the less a valid judgment, and the remedies on a valid judgment, other than "execution," could be put in force against him.

NOTE.—*Imp. O. 9, r. 6, and Ont. O. No. 40 are virtually identical. Imp. O. 16, r. 10 and Ont. O. No. 100 were identical before the addition made to the latter by Ont. O. No. 501. Imp. O. 42, r. 8 and Ont. O. No. 346 are identical.*

NOTES OF CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

QUEEN'S BENCH DIVISION.

Osler, J.] [Feb. 28.

REGINA v. CLUFF.

Certiorari—Quashing.

Where the recognizance intered into to prosecute a writ of *certiorari*, which had been returned by the Justices before whom the conviction was had, after the allowance of the *certiorari*, was bad, while the conviction might be good, such allowance was *held* capable of being quashed on the return of the rule to quash the conviction, and that no substantive motion for the purpose was necessary. *Secus*, on a trifling objection or in the case of an undoubtedly bad conviction.

Aylesworth, for the plaintiff.
Watson, contra.

Osler, J.] [March 3.

RE LANGMAN v. MARTIN.

Contract—Arbitration.

L., a builder, and a building committee agreed that all former contracts should be ended and abandoned, L. to give up any claim for compensation except as presently agreed. Certain work already executed was to be viewed by E. and a valuation put upon it; and, should it not conform to the plans, L. was to make it right at his own charges. The building material on the ground was likewise to be valued by E. and paid for at first cost. *Held*, that the construction of the arrangement was that L.'s work was to be paid for at E.'s valuation, who was not an arbitrator, and the agreement was not a submission to arbitration and could not be made a rule of Court.

Aylesworth, for application.
Clute, contra.