REVIEW OF CURRENT ENGLISH CASES.

PRACTICE — ACTION — DISCONTINUANCE BEFORE APPEARANCE — COUNTERCLAIM.

The Salybia (1910) P. 25. This, although an admiralty action, it may be useful to note as settling that where an action is discontinued before appearance, it is at an end for all purposes, and it is not thereafter open to the defendant to file a counterclaim. After the action had been discontinued the defendant applied to compel the plaintiff to deliver "a preliminary act," which appears to be the equivalent in admiralty for a statement of claim in an ordinary action, in order that the defendants might be able to deliver a counterclaim, but Bigham, P.P.D., held that the defendant had no such right under the Rules.

ADMIRALTY—COLLISION—NEGLIGENCE OF DEFENDANTS SERVANT CAUSING ORIGINAL DAMAGE — SUBSEQUENT NEGLIGENCE OF PLAINTIFFS' SERVANT CAUSING LOSS—CONTRIBUTORY NEGLIGENCE.

The Egyptian (1910) P. 38. In this case which was an admiralty action to recover damages for a collision, the facts were as follows. The defendants' vessel was so negligently handled by her temporary master in taking up her berth at a dock, as to cause a collision with the plaintiffs' vessel moored at the dock. After the collision, and knowing that it happened, the temporary master of the defendants' vessel went on board the plaintiffs' vessel and resumed his duties there as a watchman, but negligently failed to discover that owing to the collision water was entering the plaintiffs' vessel, and in consequence took no steps to prevent the inflow which he might have done; and owing to this neglect the vessel sank. In these circumstances Deane, J., held that the defendant was liable for all the damage, but the Court of Appeal (Lord Alverstone, C.J., and Buckley and Kennedy, L.JJ.), held that though the defendant was liable for the initial damage caused by the collision, he was not liable for the damage caused by the sinking of the vessel, which was due to the omission of the plaintiffs' servant to take proper steps to prevent the inflow of water.