as "Smith, Rae & Greer," and permitting them to acquire the right to be known by that name as its sole owners.

Held, that he could not, after this conduct and lapse of time, assume the name of "Smith, Rae & Greer," and that the members of the firm who had adopted that name were entitled to have him enjoined from using it. *Levy* v. *Walker*, 10 Ch. D. 436, 448, followed.

Rae had at one time been a member of the old firm of Smith, Rae & Greer, but had ceased to be so for some years before the dissolution. He permitted his name to be used in the style of the new firm, but was not a member of it, and was not practising as a solicitor.

Held, that he was not a necessary party to the action, nor was there such danger of liability being incurred by him by his being held out by the defendant as a partner as entitled him to an injunction.

Shepley, K.C., for plaintiffs. *Aylesworth*, K.C., and *W. N. Tilley*, for defendant.

Meredith, C.J.C.P., MacMahon, J., Teetzel, J.] [Jan. 30.

MARKLE *v.* DONALDSON.

Master and servant—Injury to servant—Workmen's Compensation Act—Defect in ways, works, etc.—Person intrusted with duty of seeing that condition is proper—Fellow servant—Negligence.

The plaintiff was employed by the defendants as a carpenter, and was engaged in shingling a building when a cleat which he was using as a means of support gave way, and he was thrown to the ground and injured. There was evidence that the cleat gave way owing to one of the shingles to which it was attached not having been properly fastened to the roof, and that the mode adopted of fastening it and the other cleats on the roof was an unsafe one. It did not appear by whom the cleats had been put on; they were on before the plaintiff began to shingle the roof; and he was not one of the workmen employed on the building when they were put on.

Held, that the cleat was a part of "the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of the employer," within the meaning of sub-s. 1 of s. 3 of the Workmen's Compensation for Injuries Act, R.S.O. 1897, c. 160; and, there being evidence upon which a jury might find that the cleat was defective in that it was not securely fastened, that the defective condition was the proximate cause of the injury, and that it was due to the negligence of the defendants' workmen who put on the cleats. The defendants would be answerable for that negligence (if found) as being negligence of persons intrusted by them with the duty of seeing that the condition or arrangement of the ways, etc., was proper, within the meaning of sub-s. 1 of s. 6. Differences between sub-s. 1 of s. 6 and the corresponding provision of the English Act pointed out.