appeal, consequently certiorari was the proper means of relief.

Queen v. Foster—Estate of Esson, 30/1.

30. **Amendment on appeal.**] — The Court has power to make, and under the Judicature Act should make, all amendments necessary to determine the real question at issue between the parties.

See PLEADING, 3.

31. **Order which ought to have been made — Amendment by Court.**] — The Court, on appeal, reformed an order or rule for judgment of a County Court Judge to make it agree with his decision, under O. 57, R. 5, instead of remanding it back.

McLellan v. Morrison, 23/235.

32. **Bond on appeal—Construction of condition.**]—Action against the surety in a bond on appeal, the condition of which was as follows:—". . . if the said H. shall effectually prosecute his said appeal, and in the event of said judgment being sutained, shall pay the amount of the said judgment in the County Court, together with such further sum as may be awarded by said Supreme Court for costs to the plaintiff on said appeal, and comply with the order of the said Supreme Court on said appeal, then this bond . . . shall be void . . . "

Held, that the security of the bond did not attach except in the event of the judgment of the County Court being sustained, which not having happened, the surety was not in any case liable.

Smith v. Ashwood, 28/331.

33. **Bond — "Effectually prosecute."**]—Action against the surety on a bond given to obtain a stay of proceedings pending an appeal to the Supreme Court. The condition of the bond was " . . . if the said S. shall effectually prosecute his said appeal and respond the judgment to be finally given thereon, then this bond . . . ." The appeal was dismissed with costs, which S. paid.

Held, this did not satisfy the condition of the bond. "Effectually prosecute" is synonymous with "prosecute with effect," and means that the appellant must succeed in his appeal.

McSweeny v. Reeves, 28/422.

34. **Time for appealing.**]—The time for appealing runs from the date of the pronouncement of the judgment, not from the date of the order made in accordance therewith.

An appeal from an order is restricted to the form of the order or the question whether it correctly embodies the terms of the judgment upon which it is based. Such an order may be corrected on an application to the Court for that purpose. Weatherbe, J., dissented.

King v. Drysdale, 25/115.

(Note.—But cf. Rules S.C. (1900), O. 57, R. 3.)

35. **Enlarging time — Legislation.**] — Judgment was given for the defendant in the County Court, the order for which was passed December 9th, 1886, and notice of appeal was given December 26th, which appeal was dismissed on the ground that the Acts of 1886, c. 34, s. 9, had taken away appeals in such cases. Plaintiff then applied for and obtained an order for enlarged time in which to apply to set aside the findings, and from this order defendant did not appeal. On 19th July the Judge set aside the findings, the answers of the jury being directly against the evidence.

Held, it was competent for the plaintiff to question the legality of the enlargement, although he had not appealed from the order therefor, but that the judgment was regular and the judgment setting aside the findings correct.

Belden v. Freeman, 21/106.

36. **When appeal is abandoned.**] — "Under the provisions of O. 58, R. 6, an appeal is to be considered as abandoned unless it is entered on the first entry day after the notice, and the motion made when the cause is called on the docket, or some effectual proceeding has been taken by the appellant to preserve his appeal, and in such a case it shall not be necessary for the respondent to make any motion or take any order dismissing the