

rights to claimants after the time limited within which they are to move would be to defeat the very objects of the statute. The whole scope of the Act is to provide a means for speedy distribution. See ss. 20, 21, and 22, amongst others, for an illustration of this view.

The practice cases in our provincial courts cannot be cited as authority in the construction of s-s. 5. They apply to a totally different state of law and facts, for by Rule 485 there is power to extend the time notwithstanding that the application is made after the time for doing the act has elapsed.

Another illustration of the question under discussion may be found in cases of arbitration where the time for making an award has elapsed without previous enlargements. The arbitrator, unless express power is given to him by the submission, has no power to extend the time either before or after the expiry of the time limited, nor had the court any authority to extend or fix a time where no time was mentioned by the submission to arbitration.

The court first obtained power by statute 3 & 4 Wm. IV., c. 42, s. 39, to enlarge the time for making an award after the expiration of the original or enlarged time. This was held in *Leslie v. Richardson*, 6 C.B., p. 378, and the language of Coltman, J., who delivered the judgment of the court in that case, is instructive and to the point. At page 373 he says, with reference to the statute giving power to the court to enlarge the term "from time to time": "If these words occurred, as they often do, in a submission to arbitration in which power is usually given to the said arbitrator from time to time to enlarge the time for making the award, there seems no doubt that they would not authorize an enlargement made after the time had expired. But it is given to the arbitrator, in his character of arbitrator—which character is not absolute and perpetual, but conditional and limited—if he shall make his award on or before, etc.; whereas the power given by the statute 3 & 4 Wm. IV. is conferred on the court, which has perpetual existence, and is given absolutely, and not conditionally." Similar provision is made in our Act, R.S.O., c. 53, s. 43. Russell on Awards, 7th ed., p. 149, points out that "without the consent of the parties, neither the court nor a judge could at common law grant any enlargement when the time had lapsed; the authority of the arbitrator was gone and all the proceedings already taken became ineffectual." The Act of Wm. IV. was passed to remedy this inconvenience. The principle is reasonable, and is quite different to the case of a claimant under the statute relating to assignments. The ends of justice and the rights of the parties to the reference should not be defeated by any default or mistake on the part of an arbitrator as to formalities. The right to extend the time is in the interest of all the parties concerned. The failure of an arbitrator to make an award within the time limited either by the submission or by lawful extension creates no vested interests in any of the persons before him. Until the award is made and published, all rights remain as they did before the submission. We are not aware of any exception to this rule, except, perhaps, that the parties are prevented from taking, in the meantime, other proceedings by reason of the submission; but this is a disability and not an interest. The right to extend the time, under the statute we are discussing, would be in the