tain lands, (2) the purchaser at a sale of the lands under an order made by a Local Master for the partition or sale of lands in two different counties, and (3) a simple contract creditor of the owner of the other undivided third part of the lands, against a mortgagee of the latter's undivided third to restrain the mortgagee from proceeding with a foreclosure action. It was *Held*, that if the lands sought to be affected by the order for partition or sale of the local master lie in more than one county, the jurisdiction of the local master does not attach, and, following *Queen* v. *Smith*, 7 P.R. 429, the master having no jurisdiction to make the order for partition or sale, all proceedings under it were null and void.

Held, also, that the owner of the two undivided third shares of the land had no right to redeem the mortgage of the other undivided third share.

Held, also, that a simple contract creditor had no right to redeem.

Query. Whether a mortgagee of an undivided share in the lands should not be made a party to partition proceedings?

John Hoskin, Q.C., and *W. Nesbitt*, for plaintiffs.

Bain, Q.C., for the defendant.

BOYD, C.] [March 27.

HALL *v.* FORTYE.

Assignment for creditors—Consent of creditors—Ratification subsequent.

Under R.S.O., c. 124. Although an assignment may not have been made in the first instance with the assent of creditors, yet if the creditors subsequently ratify and consent to it, it becomes as valid and effectual as though the assent was prior to or concurrent with the assignment.

Hoyles, for plaintiff.

Shepley, for defendant.

Practice.

FERGUSON, J.] [April 23.

UNION BANK *v.* STARRS.

Evidence—Depositions in examination for discovery before statement of defence—Office of company—Rule 506.

Before delivery of his statement of defence, one of the defendants obtained an order to examine an officer of the plaintiffs for discovery, and examined him thereunder.

Held, that such defendant could under Rule 506 read the depositions so taken as evidence at the trial of the action.

W. R. Meredith, Q.C., for the plaintiffs.

Aylesworth, for the defendant O'Gara.

MACLENNAN, J. A.] [April 25.

ROLANDS *v.* CANADA SOUTHERN R.W. CO.

Appeal—To Supreme Court of Canada—Judgment of Court of Appeal upon appeal from Divisional Court refusing new trial—Notice of appeal—R.S.C., c. 135, ss., 24 (d.), 41—Extension of time—Circumstances of case.

The defendants appealed to the Court of Appeal from an order of a Divisional Court discharging an order *nisi* to enter judgment for the defendants or for a new trial, on the ground, among others, that the trial judge should have withdrawn the case from the jury or should have directed them otherwise than he did. The Court of Appeal dismissed the defendants' appeal, and the defendants sought to appeal from such dismissal to the Supreme Court of Canada.

Held, that the judgment of the Court of Appeal, came within s. 24 (d) of the Supreme and Exchequer Courts' Act, R.S.C., c. 135, as "a judgment upon a motion for a new trial upon the ground that the Judge had not ruled according to law"; and that the proposed appeal was governed by the necessity for the notice of appeal within twenty days prescribed by s. 41 of the Act. The judgment of the Court of Appeal was delivered on the 5th of March, 1889. On the 16th March the solicitors for the defendants wrote to their clients suggesting an appeal, but they received no instructions until the 2nd April, and took no step till the 3rd April. No explanation was offered of the delay or neglect except the production of a telegram to the solicitors from an officer of the defendants', giving instructions to appeal, and suggesting that the matter had been overlooked by another officer.

The Judges in the Divisional Court and Court of Appeal were unanimous in deciding against the defendants.

Held, that under these circumstances the time for giving the required notice should not be extended.