favour of making the grant to the respondent, I doubt whether the case would be one for the revocation of the grant, even if it appeared that that discretion had been improperly exercised.

I have found no case in which since the enactment of sec. 73 of the English Probate Act, which is the corresponding section to sec. 59 of our Act, a grant has been revoked because it has appeared that it was made in circumstances which according to the practice of the Probate Court it was not usual to treat as special circumstances within the meaning of sec. 73.

Cases decided before the change in the law effected by sec. 73 was made are distinguishable, because before that change it was obligatory on the Court, in case of intestacy, to commit the administration to the next and most lawful friends of the deceased (31 Edw. III. ch. 11), or to the widow of the deceased, or to the next of his kin or to both (21 Hen. VIII. ch. 5, sec. 3), and therefore the Court had no jurisdiction to commit the administration to a stranger, but now the Court is, by sec. 59, empowered in its discretion to commit the administration to a stranger if there are special circumstances which in its opinion make it necessary or convenient to do so.

Upon the whole, I am of opinion that the appeal fails and should be dismissed with costs.

J. B. O'Flynn, Chatham, solicitor for plaintiff.

J. B. Rankin, Chatham, solicitor for defendant.

MAY 3RD, 1902.

DIVISIONAL COURT.

KEENAN v. RICHARDSON.

Bankruptcy and Insolvency—Preference—Chattel Mortgage—Attack within 60 Days—Statutory Presumption—Satisfaction of Onus—Good Faith—Notice—Knowledge.

Dana v. McLean, 2 O. L. R. 466, followed.

Appeal by plaintiff from judgment of BOYD, C., dismissing action by plaintiff, a creditor of one J. Wilson, to set aside a chattel mortgage made by him to defendant on the 19th February, 1900, alleged to have been made with intent to give an unjust preference. The defendant held a mortgage for $7,000 on Wilson's farm, upon which interest amounting to upwards of $1,600 was in arrear. The mortgage contained a distress clause, in the form of the schedule to the Short Forms Act, and the evidence shewed that defendant believed he was entitled to distrain for $1,600, and