

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Practice.] MCKIN V. TOWNSHIP OF EAST LUTHER. [Sept. 19.

Local Masters—Jurisdiction—Referring actions to Drainage Referee.

A Local Master of the High Court has jurisdiction by virtue of Rules 42 and 49—see also Rule 6 (a)—to make an order, under s. 94 of the Municipal Drainage Act, R.S.O. c. 226, referring an action brought in his county to the Referee under the Drainage Laws.

Mabee, Q.C., for appellants. *M. Wilson*, Q.C., for respondent.

Osler, J. A.] IN RE REDDOCK AND CITY OF TORONTO. [Sept. 28.

Appeal—Leave—Judicature Act, s. 77.

Where a motion to quash a municipal by-law was refused by the Judge who heard it, and his order affirmed by a Divisional Court, an application for leave for a further appeal was dismissed.

Held, that, under s. 77 of the Judicature Act, upon such an application for leave, it must appear that there is some reasonable ground for doubting the soundness of the judgment, and in addition thereto, that special reasons exist for taking a case out of the general rule, which forbids more than one appeal to the same party.

F. E. Hodgins, for applicant. *Fullerton*, Q.C., for city.

HIGH COURT OF JUSTICE.

Ferguson, J.] RE METCALF. [July 10.

Will—Devise of residue—Executory devise—Event happening in part.

A testator by his will gave his wife a life interest in his estate, and at his death some specific legacies, and then provided "The residue * * * I give, devise and bequeath as follows, that is to say: it shall be equally divided between my brothers R. M. and M. M., or in case of their dying before my * * * wife L. M., it shall be equally divided between the heirs of my brothers R. M. and M. M." R. M. died in the lifetime of the widow and M. M. survived her.

Held, that as the event provided for, viz., the death of both R. M. and M. M. during the widow's lifetime had not happened, the devise of the