Recent English Decisions.

PATENT ACTION—AMENDMENT AT TRIAL OF PARTICULARS OF OBJECTION.

In *Moss* v. *Mallings*, 33 Chy. D. 603, which was an action to restrain the infringement of a patent, during the trial, after the examination and cross-examination of the plaintiff, the defendant applied to postpone the trial and to amend the particulars of objection, alleging that since the conclusion of the cross-examination of the plaintiff he had discovered new facts, showing that the alleged invention was not new at the date of the patent. No affidavit was tendered in support of the application, but the defendant asked leave to recall the plaintiff, or step into the box himself to prove the facts. North, J. refused the application, holding that it could only be granted on its being shown that the defendant could not, with reasonable diligence, have discovered the new facts sooner.

PRACTICE—FIRM OUT OF JURISDICTION—SERVICE ON AGENT WITHIN JURISDICTION—(ONT. RULES 40 & 41).

In *Ballie* v. *Goodwin*, 33 Chy. D. 604, the defendants were a Scotch firm, having an agent within the jurisdiction whose authority did not extend to taking orders: but the name of the firm was affixed to the agent's office. It was held by North, J., that the office of the agent was not a place of business of the firm for the purpose of serving the writ, and the service of the writ on the agent was accordingly set aside.

BILL OF EXCHANGE ON DEMAND—STATUTE OF LIMITATIONS.

In re Boyse, Crofton v. *Crofton*, 33 Chy. D. 612, is a decision of North, J., on a question of mercantile law. In 1872 a Mrs. Boyse, an Englishwoman, living at Marseilles, with one Gautier as his wife, though not married to him, drew a bill of exchange on the Bank of England, at sight to her own order. She indorsed the bill to Gautier, who, in 1876, indorsed it to the claimant. The bill was presented for payment in 1880. It was held by North, J., that the time did not begin to run for the purpose of barring the right of action against the drawer or her estate until the presentation of the bill. It was also held that the bill which stated that the sum for which it was drawn was "on account on the dividends and interest due on the capital and deeds registered in the books of the" bank in the name of Colclough & Boyse, "which you will please charge to my account, and credit according to a registered letter I have addressed to you," was a negotiable bill. At the time the bill was drawn, the drawer had no account with the Bank of England, but she had government securities on which large dividends were due—the bill not having been presented until after her death. It was held that the delay in presentment had not released her estate, as she had no reason to believe when she drew the bill that it would be paid if presented.

SHARES IN INCORPORATED COMPANY—CHOSES IN ACTION

Turning now to the Appeal Cases, the first to which we desire to draw attention is *The Colonial Bank* v. *Whinney*, 11 App. Cas. 426, which is useful for the discussion it contains of the question whether shares in an incorporated company came within the designation of "things in action" as used in the Bankruptcy Act. It was contended by counsel for the respondent that this expression had a technical sense limited to the right to sue for a debt or damages, an argument which had prevailed with Cotton and Lindley, LL.J., in the Court of Appeal, but the Lords were unanimous against this view.

LOST WILL—EVIDENCE OF CONTENTS OF LOST WILL—POST-TESTAMENTARY DECLARATIONS BY TESTATOR.

The case of *Woodward* v. *Goulstone*, 11 App. Cas. 469, is important, not for the point actually decided by it, but for the *dicta* it contains as to the admissibility of the post-testamentary declarations of the testator as to the contents of a lost will: all the learned Lords who took part in the judgment, viz., Lords Herschell, Blackburn and Fitzgerald, guarded themselves against being in any way committed to the view that such declarations are admissible, as was held in the celebrated case of *Sugden* v. *Lord St. Leonards*, 1 P. D. 154.

RES JUDICATA—ESTOPPEL—JUDGMENT IN REM.

The House of Lords in *Concha* v. *Concha*, 11 App. Cas. 541, affirm the decision of the Court of Appeal, 29 Chy. D. 268, which we noted *ante* vol. 21, p. 213.

PRINCIPAL AND SURETY—DISCHARGE OF SURETY.

Taylor v. *Bank of New South Wales*, 11 App. Cas. 596, appears to be one of those cases which turn principally on the evidence. The action was brought by sureties, praying a declaration that they had been released from their