

in this case it ought not; and Mathew, L.J., alone decides fairly and squarely "that in determining whether a ship can be repaired, the assured is not entitled to add the damaged value of the ship to the cost of repairs."

PRACTICE—ACTION AGAINST FIRM—EXECUTION AGAINST PERSON AS MEMBER OF A FIRM—ISSUE TO DETERMINE WHETHER ALLEGED PARTNER LIABLE TO EXECUTION—FORM OF ISSUE—RULE 648h—(ONT. RULE 228.)

In *Davis v. Hyman* (1903), 1 K.B. 854, the plaintiff recovered a judgment against a firm and then applied under Rule 648h (Ont. Rule 228) for leave to issue execution against a person whom he claimed to be a partner of the defendant firm; the motion being resisted, the master directed an issue to determine whether the alleged partner "was, or had held himself out as, a partner in the defendant firm." Phillimore, J., on appeal varied the form of the issue by directing it be whether the alleged partner "was at the date when the bill of exchange sued on was given, or at the date when the goods were supplied, a member of the defendant firm." The Court of Appeal (Williams, Stirling, and Mathew, L.JJ.) however, on appeal from Phillimore, J., set aside his order and restored that of the master.

SUITOR IN PERSON—COUNSEL.

Re Solicitor (1903) 1 K.B. 857, may be referred to as another instance in which the English Courts in the exercise of their discretion decline to hear a suitor in person. In this case a Mr. Trueman made a complaint of misconduct against a solicitor. Under a statute the complaint was referred for investigation and report to the Law Society. The Society reported that the charge was not made out. The statute provided that notwithstanding such a report that any person who, but for the Act, might have been entitled to apply to the Court to strike a solicitor off the rolls, may so apply, though the Law Society is of opinion that the charge is not made out. On the presentation of the report to the Court Mr. Trueman appeared in person and claimed to be heard in support of his charges, but the Divisional Court (Lord Alverstone, C.J., and Wills and Channell, JJ.) held that the practice of the court was not to entertain applications against solicitors by suitors in person, and refused to hear him, and declined to adjourn the matter to enable him to instruct counsel.