company." With regard to that case, the Lord Chancellor, without certainly expressing any approval of it, distinguishes it from the case before him, observing, that if the proposition of Lord Langdale were limited to the extent to which the words in which it is expressed go, there might be no exception to that proposition; but undoubtedly he would not assent to it if carried one jot beyond those limits.

From these observations of the Lord Chancellor we hope to see the principle he has laid down in *Forrest* v. *The Manchester, Sheffield, and Lincolnshire Railway Company* acted upon in the decisions of the Court of Chancery, as far and as extensively as they possibly can be, consistently with the right which individual members of a company have to protect their own interests by bonâ fide proceedings; and that companies, whether they are actuated by religious or commercial motives, or both of them, will be warned that they cannot, by assuming the garb of a shareholder of a rival company, or by employing him as their tool, attain those ends which they could not do in their real character.

The principle might also, we think, be more extensively acted upon by the Legislature than it has been, and that every means should be taken to prevent suits in courts of justice being commenced, except for the interests of those on whose account they are nominally instituted. Administration suits, for instance, in the Court of Chancery, have not always been, and are not always now, instituted either for the benefit of creditors or the estate to be administered. But perhaps the most iniquitous law proceedings ever tolerated by courts of justice, or borne for a long period by a patient people, are those in which *companies are wound up*. *Can no additional security* be imposed against such proceedings being wantonly undertaken and recklessly carried out? How often have they been commenced and carried on by the mere nominees of those who profit by them, ostensibly, indeed, for the payment of creditors but in reality for the creation of costs, the apparent movers in the proceedings being the mere puppets of those undertaking the profitable process of winding up the affairs of shareholders unfortunate in the object of their speculation, but doubly unfortunate in falling into the hands of the winding up fraternity.

A correct return of all the cases in which the operation of winding up companies has been performed, giving the names of the operators, the amount distributed, and the cost of distribution, with, perhaps, a few other details, would form a very instructive commentary upon the evils of allowing any person constructively to represent others, except in those cases where, to use the words of the Lord Chancellor, the suit is a bonâ fide one, faithfully, truthfully, and sincerely directed to the benefit and interest of the persons whom the party originating such proceedings claims a right to represent.—*Jurist.*

DIVISION COURTS.

TO CORRESPONDENTS.

All Communications on the subject of Division Courts, or having any relation to Division Courts, are in future to be addressed to "The Editors of the Law Journal, Barrie P.O

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THE LAW AND PRACTICE OF THE UPPER CANADA DIVISION COURTS.

(*Continued from page* 262.)

The power to hold a court is nothing but a delegation of an authority, and when the time and place for holding it is appointed, in the delegation thereof, the direction must of course be followed, or all acts not in accordance with the provision will be void.

In the old Court of Requests Act the days of sitting were fixed by statute. By the Act regulating the Division Courts, neither the times nor places of holding the courts are appointed. If no provision respecting sittings was contained in the Act the judges, by their authority as judges, would doubtless have the determining when and where courts were to be held, subject to the control of the superior courts of common law. But the Act expressly confers the necessary power, as will be seen.

The general provision as to the times when and the places where the courts are to be held is contained in sec. 6, which enacts as follows:—

A court shall be holden in each division *once in every two months*, or oftener, in the discretion of the senior or acting county judge; and the judge may appoint and from time to time alter the times and places within such divisions when and at which such courts shall be holden. Section 3 also provides, that there shall be a court in every city and county town; and section 7, before noticed, enables the Governor to make special order respecting the holding of certain courts where the amount of business in the division, or its peculiar situation, renders frequent courts unnecessary.

Where no order has been made under section 7 for holding the courts, the appointment of sittings or days when the courts in each judicial district are to be holden belongs to the judge, and are fixed at his discretion, subject to the direction (in sec. 6) that in each division a court shall be holden once in every two months. In like manner the judge has the sole power of appointing the places where the courts are to be held within each division.

The direction in sec. 6 calls for some observation, viz.: "A court shall be holden for each division once in every two months," that is to say, not in every three months, nor in every six months (quarter or half year), but one in every two months, or in every sixth of a year. The year is thus regarded as divided into six parts or periods of two months each; and at some convenient time in each of these periods a court is to be held, but not necessarily at regular intervals or a periodicity of two months fixed. This is the plain and ordinary sense of the words "once in every two months," i. e. calender months (Interpretation Act, sec. 13). Indeed it would not be possible to comply strictly with a provision to hold sittings at regular intervals and stated days, for the day might fall on a Sunday or legal holiday, and besides the judge is also sole judge of the local courts of record, the terms and periods of sitting of which are fixed by statute, and no arrangement could be made for so holding the Division Courts that would not conflict therewith. Therefore the necessity for leaving to the judge the power of appointing the sittings for such days in the