great discretion in dealing with litigious and other matters, whilst here the authority is limited, and in nearly all similar cases there is no discretion whatever.

The judge of the County Court empowered to act under the above and similar sections is *persona designata*. In such cases his authority is strictly limited to the power conferred on him by statute. He has not the discretion of a court, except so far as the statute under which he acts gives it to him. A provision similar in its nature is found in the Dower Act, R.S.O., c. 133, s. 9, where an application may be made to a High Court judge for power to mortgage or sell free from dower.

In the case of *In re Rush*, *post* p. 127, it was held by the Divisional Court that there was no appeal from the finding of the judge on the ground that he was *persona designata*. The same principle governed in *Re Godson and the City of Toronto*, 16 A.R. 452. It is, therefore, necessary to construe this section both strictly and technically.

The sub-section specially referred to gives certain rights to claimants, but it also gives rights to the assignee and the creditors. If a claimant does not bring his action and serve his writ within thirty days after service of notice, "the claim to rank on the estate shall be forever barred." This creates, after the expiration of the thirty days, a vested right as against the claimant. The statute gives no power to the County Court judge to disturb this vested interest. There is no difference between this case and the case of a claim barred by the Statute of Limitations. The remedy in both cases is gone by virtue of the statutory law. Both Acts relate to the remedy and the time within which it is to be enforced. If we once admit that the judge may, after the expiration of thirty days, relieve against the operation of the statute, we must assume that the Legislature intended that the judge should have power to render the Act inoperative, and that he has practically the right to destroy vested rights created by the Act. This does not appear to be the true meaning of the section. The evident intention is that the judge is to aid the statute in its operation where the right is not barred and where circumstances arise under which, without any fault on the part of the claimant, the arbitrary provision of the law might work an injustice—not that he can destroy rights which the statute has created previously, or restore a remedy which has been "forever barred." One can readily suppose a case where a claimant, being unable to serve his writ owing to no fault of his, would suffer great loss and injustice if the power in question did not exist, but this does not enlarge the rights of the claimant or entitle him to a restoration of his rights once they are gone.

A strong case in point is *Doyle* v. *Kaufman*, L.R. 3 Q.B.D. 7, and in appeal, same volume, page 340. There, a writ issued for service out of the jurisdiction had ceased to be in force, not having been served within twelve months, as required by Order 8, Rule 1. In the meantime, the period had expired after which, if no action had been previously brought, the claim would be barred by the Statute of Limitations. Under another rule—Order 57, Rule 6—time for service might be enlarged if the justice of the case required it, and this was relied on as authority for granting the indulgence. It was held that the applica-