

by the plaintiffs at the request of the defendant constituted a part performance of the contract and took the case out of the Statute. Our recollection of the earlier cases is that they very distinctly laid down that the acts of part performance, sufficient to take the case out of the Statute, must be plainly referable to the contract relied on, and we should venture to doubt whether the present decision would successfully stand the ordeal of an appeal, as it is somewhat difficult to see how the making alterations and improvements in a house in course of erection, at the suggestion of another person, is necessarily referable to a contract to sell the land to such other person.

**WINDING UP—CREDITOR OUT OF JURISDICTION COMING IN TO PROVE CLAIM—SECURITY FOR COSTS.**

*In re Pretoria Petersburg Ry. Co.* (1904) 2 Ch. 359, was a winding up proceeding in which a creditor, resident out of the jurisdiction, applied to the Court on originating summons for a declaration that he was entitled to prove a claim. The liquidators applied for an order that the creditor to give security for costs, which was refused by the registrar; but on appeal Buckley, J., held that the liquidators were entitled to the order.

**SOLICITOR—COSTS—TAXATION—“THIRD PARTY INTERESTED CREDITOR IN ADMINISTRATION ACTION—SOLICITOR'S ACT, 1843 (6 & 7 VICT. c. 73) s. 39—(R.S.O. c. 174, s. 45).**

*In re Jones* (1904) 2 Ch. 363, may be referred to as marking a difference between the English and Ontario Solicitor's Act as regards the rights of third parties to tax a solicitor's bills. Under Imperial Stat. 5 & 7 Vict. c. 73, s. 39, a person interested in an estate out of which costs are payable is entitled to have them taxed; and this case decides that a creditor who has obtained a judgment for the administration of an estate is a person so interested, and as such entitled to have a taxation of bills of costs which have been paid by the executor of the estate. The Ontario Act, R.S.O. c. 174, s. 45, on the other hand, is confined in terms to persons "liable to pay or who have paid any bill," and under that Act a creditor upon estate out of which costs are payable is only entitled to have them moderated: see *Re Hague*, 12 P.R. 119.

**ESTOPPEL—STATEMENT INDUCED BY SUPPRESSION OF MATERIAL FACT.**

*Porter v. Moore* (1904) 2 Ch. 367, was an action brought by the mortgagees of a share in a trust fund against the trustees of the fund, claiming a declaration that the trustees held the mortgagor's