

RECENT ENGLISH DECISIONS.

shall repair. The case is, therefore, within the words of the power. Is it within the substance? I am of opinion that it is. It imposes on the tenant the burden of doing all repairs which are required, and that includes all the repairs which, but for the agreement, the landlord would be obliged to do. I think this is what the power intended. It has been urged that it was the intention of the power that the lessee should put the property in repair at the commencement of his tenancy. That is satisfied by an agreement to do repairs, for such an agreement means that the tenant shall do all repairs which are requisite during the continuance of his tenancy, and includes putting the property in repair. The agreement, therefore, satisfies the requisitions of the power in substance as well as in form." Brett, L.J., says:—"I cannot agree that 'improve' and 'repair' are equivalent terms, and that the power, when it speaks both of repairing and improving, means that the lessee would in every case be bound to improve the property. Taking the words in their natural sense they mean that the landlord is to be freed from doing the repairs which a landlord usually would have to do. Usually a landlord gives the premises to the tenant in good repair, and if there are no special stipulations the tenant is bound to do some repairs, the others must be done by the landlord if done at all . . . Would a lease, to be drawn up according to the terms of this agreement, contain such a covenant as the power requires? The lessee is to do 'necessary repairs.' Mr. Justice Chitty seems to have thought that this only applied to a very limited class of repairs, but I think it must mean all such repairs as would be necessary to enable the landlord to hand over the property to a new tenant in substantial and tenantable repair. Therefore I think that the terms of the agreement satisfy the requirements of the power."

COMPANY—WINDING UP—PRACTICE—COSTS.

The next case requiring notice is *re General Financial Bank*, p. 276, on account of the

point of practice, and of the decision as to costs in reference to the winding up of companies contained therein. The point as to practice relates to the appointment of official liquidators, (cf. R. S. O. c. 5, s. 8, subs. 3,) and is shown by the following passage of the M. R.'s judgment:—"I have indicated for years past that the practice was settled that the Court ought not to make an order on the hearing of a winding up petition for the appointment of an official liquidator, but that this should be done in Chambers . . . I thought this was the settled practice, and I wish to lay down for the future that it ought to be so, and that it is the opinion of the Judges of the Court of Appeal, which every Judge of first instance ought to follow." The point as to costs is given clearly and sufficiently in the words of the head-note thus:—"A creditor who presents a petition for winding up in ignorance of a prior petition, is entitled to his costs up to the time when he has notice of the prior petition, but if he then proceeds he will not be allowed his further costs, unless he has good reason to suppose that the other petition is not *bona fide*, in which case he is justified in proceeding and may be allowed his costs."

Proceeding now to *ex parte Reynolds*, p. 294, that case is found, in the language of the M. R., to comprise a question of general importance, viz., "Whether, when a witness objects to answer a question put to him on the ground that the answer to it may tend to criminate him, the mere statement of his own belief that it will tend to criminate him is sufficient to excuse him from answering; or whether the Judge is entitled to decide, not merely accepting the witness' statement, whether the proposed question has really a tendency to criminate him, or may fairly be considered, under all the circumstances of the case, as having that tendency. The Court of Appeal now upheld Bacon, C. J., in deciding in favour of the latter alternative. The M. R., who delivered the principal judgment, declares the law to be correctly stated in *Reg. v.*