

## RECENT ENGLISH PRACTICE CASES.

the Court will not interfere with the Judge's direction except on some special ground.

In this case an order was made for production by the defendants at London. Six months after another order was made, on the application of the defendants, for production at Colchester, but the Court of Appeal, on the matter coming before them, added a direction that the plaintiffs should be at liberty to apply for the production of any documents which might be more conveniently examined in London; and that the defendants should undertake to pay any additional costs caused by the alteration in the place of production.

## IN RE PEACE V. WALLER.

*Imp. Jud. Act, s. 25, sub-s. 8—Ont. Jud. Act, s. 17, sub-s. 8.*

*Costs—Taxation of solicitor's bill—Receiver.*

[C. A. L. R. 24 Ch. D. 405.]

M., a married woman, by her next friend, applied to tax the bill of costs of her solicitor incurred in a suit relating to her separate estate. After the Taxing Master's certificates had been filed, an order was made on the application of the solicitor, directing an enquiry of what M.'s separate estate consisted at the date of the filing of the certificate capable of being reached by the judgment and execution of the Court, and appointing a person to receive it until the amount found due on taxation was paid.

*Held*, that this order was proper, and that it was not necessary to take separate proceedings by action to enforce the demand against the separate estate.

## IN RE MANITOBA ECONOMIC BUILDING SOCIETY.

*Ont. J. Act, secs. 38, 39—Imp. O. 58, r. 15 (1875).*

*Appeal—Extension of time for appeal—Special grounds.*

A creditor of a certain company filed a petition in court for a supervision order or a compulsory winding up order of the company, in necessary ignorance of the fact, as was also the Court, that a

preceding extraordinary resolution of the shareholders to wind up the company voluntarily was invalid. A supervision order was made. Five months afterwards he discovered the invalidity of the said resolution, and now moved before the Court of Appeal for leave to appeal against the supervision order notwithstanding the lapse of time. The proper time for appealing from the supervision order was twenty-one days, "except by special leave of the Court of Appeal." (*Imp. O. 58, r. 15, 1875.*)

*Held*, that leave to appeal, notwithstanding the lapse of time, ought to be granted, the mistake as to the validity of the resolution forming a special ground for the application, and the respondents having no equity to resist it.

[C. A. L. R. 24 Ch. D. 488.]

*Per* BRETT, M. R.—It has been attempted to define and circumscribe, and lay down in other words than are laid down in the rule (*Imp. O. 58, r. 15, 1875; cf. R. S. O., 38, s. 45*), the jurisdiction and duties of the Court of Appeal. That rule must stand as it was written; it must stand as it was adopted by Parliament; and what the Court has in each case to do is to see whether there are grounds for the Court to give the special leave; and I know of no rule other than this, that the Court has power to give the special leave, and, exercising its discretion, is bound to give the special leave, if justice requires that that leave should be given.

*Per* COTTON, L. J.—In order that the appellant may be relieved from lapse of time, it is not necessary to shew that there has been anything in the conduct of the respondent which entitles the appellant to be relieved, it is sufficient if he satisfies the Court that there has been something either in the acts of the respondent or from other circumstances which entitle him to be relieved, and to be allowed to appeal notwithstanding the time has elapsed.

*Per* BOWEN, L. J.—It seems to me that to attempt in any case to lay down a set of iron rails on which the discretion of the Court of Appeal was always to be obliged to run, and to say that the leave of the Court would never be granted except in certain special circumstances and in a defined way, would be very perilous. Of course it is to be exercised in the way in which judicial power and discretion ought to be exercised, upon principles which are well understood, but which had better not