there must be a motion to a judge to settle the case. From the 1st of March, however, till the 28th of April, when a year had run from the pronouncing of judgment, nothing was done, and this motion was made on the 14th of May, 1887. The reason given for the delay after the 1st of March was that the appellants' solicitor thought it best to have the case settled by the judge who tried the action, and that the judge did not during the time in question hold Chambers, he being away on circuit. It was shown, however, on the other side, that he was not continuously absent during this period.

Held, by PATTERSON, J.A., in Chambers, that no special circumstances were shown to justify an extension of time, and that the appeal should be dismissed for want of prosecution.

Held, on appeal by the court, that the judge in Chambers had power to make the order dismissing the appeal, and that his discretion should not be interfered with.

S. H. Blake, Q.C., and *W. Cassels*, Q.C., for the appellants.

J. Maclennan, Q.C., and *T. Langton*, for the respondent.

Boyd, C.] [Jan. 9, 1888.

HARVEY *v.* MCNEIL.

Creditors' Relief Act—Mortgage action—Execution creditors against lands—Ratable distribution of proceeds of sale—Foreclosure judgment.

The Creditors' Relief Act applies to execution creditors against land in question in a mortgage action for foreclosure or sale, and all such creditors must share ratably in the proceeds of sale.

Semble, in the case of foreclosure, the old form of decree giving execution creditors, as subsequent encumbrancers, liberty to redeem according to their priorities is no longer applicable.

In this case the judgment for foreclosure was changed to sale, and the following order was pronounced on appeal from a Master's Report: Let the land be sold, and after paying what is due to the mortgagee, and interest and costs applicable to his claim, let the balance be divided ratably between the execution creditors, who are each to add their costs of this appeal to their claims, and any other execution creditors who may come in before the Master on his calling for such claims before report on sale.

C. J. Holman, for defendant, Warnock.
Middleton, for plaintiff.

Boyd, C.] [Jan. 10, 1888.

ARPIN *v.* GUINANE.

Venue—Preponderance of convenience—Disclosing the names and evidence of witnesses.

The plaintiff lived in Montreal and the defendant in Toronto; the plaintiff had twenty-six witnesses in Montreal, and the defendant twenty-eight in or near Toronto. On a motion to change the venue from Cornwall to Toronto, the Master in Chambers directed the parties to put in affidavits disclosing the names and the nature of the evidence of the witnesses, and upon these determined that the evidence of some of the Montreal witnesses would be irrelevant to the issues, while all the Toronto witnesses might be important; and changed the venue to Toronto. Upon appeal,

Held, that the conclusion of the Master as to the evidence was correct, and his order for change of venue proper upon the affidavits before him; but

Semble, the direction to disclose the names and evidence of witnesses was improper; not having been appealed against, however, and having been complied with, it could not be disturbed.

Hoyles, for the plaintiff.
H. T. Kelly, for the defendant.

Street, J.] [Jan. 20, 1888.

In re SOLICITOR.

Solicitor and client—Reference to taxation at Solicitor's instance—Order for payment—Costs of reference.

A solicitor who has obtained an order for taxation of his bill of costs against his client, and taxed his bill under it, is not entitled to a summary order for payment of the amount found due. Where the client obtains the order for taxation, he thereby submits himself to the summary jurisdiction of the Court, and