authority to call to the Bar of any of the Superior Courts of England, Scotland, or Ireland, or in any of the Superior Courts not having merely local jurisdiction in England, Ireland, or Scotland, shall be and stand repealed from and after the last day of Hilary Term next.

2. Any Attorney or Solicitor in the Supreme Court of Judicature in England, who shall furnish proof that he has for seven years been in actual practice as such Attorney or Solicitor, may be admitted and enrolled as a Solicitor of the Superior Court of Judicature in Ontario, without examination, upon payment of the like fees and giving of like notices as required in the case of Attorneys and Solicitors of the other Provinces of the Dominion under the said Rules.

3. Provided that this Rule shall not affect any of the persons named in sub-section 2 of Rule 98, who before the last day of Hilary Term, 1883, shall be bound by a contract in writing to a practising Solicitor in Ontario, as mentioned in the said sub-section 2.

The Rule was passed.

Convocation adjourned.

REPORTS

RECENT ENGLISH PRACTICE CASES.

TURNER v. BRIDGET.

Imp. J. A., O. 1, r. 2—Ont. J. A., Rule No. 2. Interpleader—Summary decision—R. S. O. c. 54, ss. 5, 7.

When the Judge in Chambers had referred an interpleader matter to the Divisional Court, and the latter had summarily heard and determined it,

Held, no appeal to the Court of Appeal would lie.

May 5, C. A.—L. R. 9 Q. B. D. 55.

BRETT, L. J.—The sections of the Common Law Procedure Act, 1860 (R. S. O. c. 54, ss. 5,7) are not repealed or altered by the Judicature Acts, which leave them as they were before. The rule to be deduced from the authorities is that upon anything which may occur on the trial of an interpleader issue there is an appeal from the judgment of the Judge who tries such issue, either with or without a jury; but that where a Judge at Chambers, who hears an interpleader summons, does not order an issue but decides the matter in the exercise of the summary jurisdiction given by s. 14 of the C. L. P. Act, 1860. (R. S. O. c. 54, s. 5) his decision is final, and there is no appeal from it. . . The only question which remains is whether what was done in the present case was in the exercise of the summary jurisdiction given by the statute. If it had been done by the Judge at Chambers, then there would have been no doubt that it was done in the exercise of such jurisdiction. Is that altered because the Judge declined to deal with it at Chambers and referred it to the Court? We are of opinion that it is not. A Judge at Chambers is always acting for the Court, and when he refers such a matter to the Court he only declines to exercise the jurisdiction of the Court, and refers to the Court the summary jurisdiction which he himself has at Chambers. When, therefore, the Q. B. D. barred the claimant in the present case, they did so in the exercise of such summary jurisdiction, and so their decision was final and without appeal.

[NOTE.—*The Imp. and Ont. Rules are virtually identical. The sections of the Imp. C. L. P. Act, 1860, 23-24 Vic. c. 126, ss. 14, 17, also appear virtually identical with R. S. O. c. 54, ss. 5, 7.*]

THOMPSON v. SOUTH EASTERN RY. CO. SOUTH EASTERN RY. CO. v. THOMPSON.

Imp. J. A., 1873, s. 24, sub-s. 7—Ont. J. A. s. 16, sub-s. 8,

Consolidating of cross actions arising out of same matter—Principles of construction applicable to the Judicature Act.

Where two parties bring cross actions against one another, arising out of the same matter, and it is desirable to consolidate them under the above section of the Judicature Act, the proper criterion for determining which party ought to be made the plaintiff and which the defendant, and whose claim ought to be converted into a counter-claim, is not the largeness of the claim in the one case as compared with the other, neither is it priority of one party over the other in respect to the threatening or commencement of litigation, but the action brought against the party on whom the burden of proof lies ought to be stayed, and the action brought by him ought to be allowed to proceed, the other party to the litigation being allowed to raise by defence, set-off, and counter-claim, all questions intended to be raised by him in the action which is stayed. At the same time this must not be considered a hard and fast rule, but the Court must use its discretion under the circumstances of each case.

March 29, C. A.—L. R. 9 Q. B. D. 320.