

Howe in so far as it was on behalf of the members constituting the Iron Moulders' Union of North America, No. 174, because the documents whose production was demanded were outside the jurisdiction of the court, and in the custody and control of the parent organization of the iron moulders at Cincinnati, who were not parties to the action.

*Kearsley v. Philips*, 10 Q.B.D. 36, and *Fraser v. Burrows*, 2 Q.B.D. 624, followed.

*O'Connor* and *Blackwood*. for plaintiffs. *Marhan*, for defendants.

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### KING'S BENCH.

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Mathers, J.]

WILLEY v. WILLEY.

[Oct. 20.

*Alimony—Husband and wife—Real Property Limitation Act—Pleading.*

The plaintiff's claim was for alimony. The wife left her husband's home in April, 1908. She complained of legal cruelty, but the trial judge found that the defendant had not been guilty of such conduct as would under the principles followed in *Russell v. Russell* (1897) A.C. 395, and *Lovell v. Lovell*, 13 O.L.R. 569, entitle a married woman to leave her husband. The defendant, in 1892, in settlement of an alimony suit commenced in that year, agreed to pay the plaintiff \$3 per week during her life, for her separate use and benefit, such payment not to relieve the defendant from his duty to support her according to his station in life. In 1900, in order to permit him to raise a loan on the land charged by the former agreement, the plaintiff gave him a quit claim deed of it, on the understanding that another agreement of a like effect would at once be executed and registered after the mortgage which was to be given as security for the loan. This was done, the new agreement bearing date the 17th day of October, 1900. Nothing had ever been paid under either of these agreements.

*Held*, 1. The agreement of 1900 did not operate as a discharge of the money that had accrued due under the former agreement, and that the plaintiff was entitled to be paid \$3 a week, from the 6th day of July, 1892, and interest at 5 per cent. per annum for six years, calculated on all moneys overdue, and to a charge on the land mentioned in the agreements for the amount.