

the statute. The Court of Appeal (Lord Esher, M.R., Fry and Lopes, L.JJ.) held that this plea was good in law, as it must be taken to mean that in refusing the application the defendants had assumed to exercise a jurisdiction which they did not possess, and that they had therefore not substantially heard and determined the matter submitted to them. Lopes, L.J., neatly sums up the point thus, at p. 441: "I am of opinion that a return of absolute obedience to a mandamus to justices to hear and determine a matter can be questioned by a plea in certain cases. If the plea sets up that the justices had determined the matter wrongly, it would be bad. If, on the other hand, it said that the justices did not hear and determine the matter it would be good. If it set up that the justices declined to exercise a jurisdiction which they had, and professed to exercise another jurisdiction which they did not possess, that, I think, would be good."

COMPANY—WINDING UP—PROHIBITION AGAINST CARRYING ON BUSINESS.

*The Hire Purchase Furnishing Co. v. Richens*, 20 Q. B. D. 387, is a case upon the construction of s. 131 of the Companies Act, 1862, which provides that a company being wound up voluntarily, shall, from the date of the commencement of such winding up, cease to carry on its business except in so far as may be required for the beneficial winding up thereof. The plaintiff company having sued the defendants for breach of a contract made after the company had commenced proceedings for a voluntary winding up, and the contract and breach being duly proved, it was held by the Court of Appeal (Bower and Fry, LL.J.), affirming Grantham, J., that it lay on the defendants to show that the contract was not required for the beneficial winding up of the company, and that in the absence of such evidence the plaintiffs were entitled to succeed.

EXECUTOR INTERMEDDLING WITH ESTATE BEFORE PROBATE—INJUNCTION—RECEIVER.

Turning now to the cases in the Probate Division, we find only two which we think it necessary to notice. *In re Moore*, 13 P. D. 36, before probate, an executor without the consent of his co-executor intermeddled with the estate, and upon the joint application of the co-executor and a residuary legatee, leave was granted to issue a writ of summons for an injunction to restrain the intermeddling executor from dealing with the property, and for the appointment of a receiver.

AMERICAN DIVORCE—DOMICIL—NULLITY.

The only other case is *Turner v. Thompson*, 13 P. D. 37, which was a petition for a declaration of nullity of marriage. The petitioner being a domiciled Englishwoman, in 1872 went through a form of marriage in England with an American citizen. She cohabited with him until 1879 in the United States, and in April, 1879, the Supreme Court of Columbia pronounced a decree dissolving the marriage on the ground of the husband's incapacity. She then returned to England and presented a petition to the Divorce Court there, praying a declara-