interest of the defaulter only, and be clearly adverse to the rights of another which have become vested by reason of the statute and of the default of an opposing litigant who seeks the indulgence of the judge.

The conclusion must, therefore, be that the application for further time in these cases must be made within the time originally limited; otherwise the rights of the claimant are barred and the jurisdiction of the judge of the County Court is at an end.

His Honor Judge McDougall, Judge of the County Court of the County of York, has also held, after reserving the point, in accordance with the views above expressed, and his judgment in these matters is entitled to great weight.

COMMENTS ON CURRENT ENGLISH DECISIONS.

(Law Reports for December.—*Continued.*)

PRACTICE—MOTION TO COMMIT—PERSONAL SERVICE OF NOTICE OF MOTION—APPEARANCE ON MOTION—WAIVER—SUBSTITUTED SERVICE.

Mander v. *Falcke* (1891), 3 Ch. 488, was a motion to commit the defendant for disobedience of an order. A preliminary objection was taken, that the defendant had not been personally served with the notice of motion. The objection was allowed, and it was held by Kekewich, J., that the appearance of counsel for the defendant to take the objection was no waiver of it. In such a case an order for substituted service will not be made, nor personal service dispensed with, until the court is satisfied that every endeavor has been made to effect personal service. Notice to the defendant's solicitor is not sufficient to dispense with personal service.

TRUST FUNDS—INVESTMENT—APPROPRIATION OF INVESTMENT TO ANSWER PARTICULAR TRUST—TRUSTEES—TRUST INVESTMENT ACT, 1889 (52 & 53 VICT., C. 32)—(R.S.O., C. 110, SS. 29 & 30; 52 VICT., C. 18 (O.))

In re Owthwaite, Owthwaite v. *Taylor* (1891), 3 Ch. 494, Kekewich, J., decides that although trustees have power under the Trust Investment Act, 1889, (see R.S.O., c. 110; 52 Vict. c. 18 (O.)), to invest trust funds in the securities specified in the Act, that Act gives no power to appropriate, or set apart, any of such investments to answer a particular purpose; *e.g.*, to provide for an annuity given by will, so as to facilitate the distribution of the rest of the estate. Here the testator had authorized the trustees to set apart sufficient of his estate to be invested in certain specified securities to answer the annuity, but the securities named were not securities authorized by the statute and it was held that the authority to set apart could not be extended to the investments authorized by the statute. This is an important limitation of the right of trustees to invest under the statute, and one that the legal advisers of trustees will do well to bear in mind.

ANNUITY—CASH PAYMENT IN LIEU OF ANNUITY—VALUE OF ANNUITY, HOW TO BE ASCERTAINED.

In *Hicks* v. *Ross* (1891), 3 Ch. 499, the question for determination was, on what basis is the present cash value of a perpetual annuity to be ascertained?