COUNTY COURT OF THE COUNTY OF YORK.

DENTON, JUN. CO. C.J. DECEMBER 9TH, 1919.

RE O'HARA & CO.

JARVIS'S CLAIM.

Assignments and Preferences—Assignment for Benefit of Creditors—Claim to Rank on Estate in Hands of Assignee—Contestation—Action to Establish Claim—Time for Bringing—Assignments and Preferences Act, sec. 27 (2)—Extension of Time after Expiry of 30 Days—Jurisdiction of County Court Judge—Reasons for Making Order.

Motion by H. P. Jarvis, the claimant, for an order, under sec. 27 (2) of the Assignments and Preferences Act, R.S.O. 1914 ch. 134, extending the time for bringing an action to establish his claim against the insolvent estate of H. O'Hara & Co., in the hands of an assignee for the benefit of creditors.

C. H. Kemp, for the applicant.
Hamilton Cassels, K.C., for the assignee.

DENTON, JUN. Co.C.J., in a written judgment, said that the claimant sought an order allowing further time within which the action mentioned in sec. 27 (2) should be brought. The claimant also asked that the notice of contestation should be set aside or treated as a nullity, on the ground of unreasonable delay in serving it. This second contention, though not abandoned, was not pressed in argument.

The first question to be decided on this motion was, whether there was jurisdiction in the learned County Court Judge to grant the order after the expiration of the 30 days mentioned in the sub-section.

In the learned Judge's opinion, Gilbert v. The King (1907), 38 Can. S.C.R. 207, following or adopting the views expressed in Banner v. Johnston (1871), L.R. 5 H.L. 157, at pp. 170 and 172, and Vaughan v. Richardson (1890), 17 Can. S.C.R. 703, could well be applied to the section of the Assignments and Preferences Act under which this application was made; and he held that he had jurisdiction to make the order after the expiry of the 30 days.

The next question was, whether the order should be made.

It is not suggested that the estate had been distributed, or that any person or interest would be prejudicially affected if the