

C. L. Cham.] REGAN V. MCGREEVY—WALKER V. DONOVAN—SIMCOE V. NORFOLK. [Ap. Case.]

order made on the assignees application, and notice to the insolvent. Thus the service of the order, or at least, averment of notice being given of it to insolvent, and a demand of the delivery &c., of the things ordered to be delivered, and then notice of the application to commit and opportunity of being heard against it. and then the order to commit. The statute it may be observed is silent as to any alternative committal.

REGAN V. MCGREEVY.

Examination of judgment debtor—Residence within jurisdiction—Member of Parliament.

An order will not be made for the examination of a judgment debtor whose home is in the Province of Quebec, though temporarily residing in Ontario attending to his duties as a member of Parliament.

[Chambers, May 7, 1869.]

O'Brien shewed cause to a summons calling on the defendant, a judgment debtor, to shew cause why he should not be examined before the Judge of the County Court of the County of Carleton, under Con Stat. U. C. cap. 24, sec. 41. He filed an affidavit of the defendants' brother, from which it appeared that the usual place of residence of the defendant was at the City of Quebec, in the Province of Quebec, and beyond the jurisdiction of the Court, and that he now resides there: that the said defendant has resided and had his domicile at the said City of Quebec all his life, and never resided or had his domicile elsewhere: that he came to Ottawa to attend to his Parliamentary duties as a member of the House of Commons of Canada for the Western Division of the City of Quebec, which he represents as a member of the said House of Commons, and that he returned to the said City of Quebec at the end of last week: that the defendant owns real estate in the City of Ottawa to the value of five thousand pounds, far more than sufficient to satisfy the claim of the plaintiff in this cause five times over, and that the plaintiff and his attorney are perfectly well aware of his owning such property, which is registered in his own name.

He contended, 1. That as the defendant did not reside within the jurisdiction of the court he could not be examined under the section referred to, nor could the order be enforced against him if he failed to attend, nor could he be punished for contempt in not attending.

2. That the defendant was privileged as a member of Parliament: *Reg. v. Gamble & Boulton*, 9 U. C. Q. B. 546, and that now was the time to take the objection, and not upon any subsequent application to commit him for contempt in case he should fail to attend: see *Henderson v. Dickson*, 19 U. C. Q. B. 592.

Henderson supported the summons.

HAGARTY, C. J., C. P.—Refused to make an order for the examination of the defendant, on the ground that he did not reside within the jurisdiction of the Court within the meaning of the statute. He doubted whether the defendant had, as a member of Parliament, any such privilege as claimed on his behalf.

WALKER V. DONOVAN.

Law Reform Act, 1868, sec. 17, and schedule A.—Entry on issue.

[Chambers, June 9, 1869.]

This was an action brought in the Common Pleas. The defendant desiring to bring it down to the County Court for trial, gave notice of trial for the same, making the entry required by the above act on the issue book alone.

O'Brien, for defendant, obtained a summons calling on plaintiff to show cause why the issue filed and served herein, and the notice of trial served herein, and all subsequent proceedings, should not be set aside for irregularity, in this, that the seventeenth section of the Law Reform Act, 1868, had not been complied with, by making an entry in the said issue filed and served, and said notice of trial and subsequent proceedings in words or to the effect in form A. in the schedule to said act.

Cause being shewn, it was contended that the word issue meant Issue Book, which did contain the notice required, and that the defendant had no defence on the merits.

O'Brien contra. The word "issue" means joinder of issue, and "entry" refers to an entry on record, and the notice should appear of record. The words "subsequent proceedings" must refer to other matters than the record merely.

ADAM WILSON, J.—I think the entry is sufficiently made by being made on the Issue Book in place of the *venire facias*. The summons must be discharged but without costs.

APPEAL CASE.

THE MUNICIPALITY OF THE TOWN OF SIMCOE
V. THE COUNTY OF NORFOLK.

Assessment Act—Equalization of Municipalities for County purposes.

Held, that the aggregate value of Municipalities to form the basis for the calculations for equalization for county purposes, under sub. sec. 2 of sec 71 of the Assessment Act, 32 Vic. cap. 36 is the value of the municipality as returned in the last revised Assessment Roll, and that it is not in the power of County Councils to vary such valuation.

[July 5th, 1869.]

WILSON, Co. J.—This is an appeal by the Town of Simcoe against the amount at which the aggregate assessment of the said Town was fixed by the County Council in the equalization of the different Townships and Towns of the County of Norfolk for County purposes, under section 71 (and sub-sections thereof), of cap. 36, Stats. of Ontario, 32 Vic., for the year 1869.

The County Council of Norfolk has equalized the Town of Simcoe at the sum of \$600,000 and then taken the interest on that amount at six per centum, thus making an aggregate valuation of the Town at \$360,000, while the assessor of the Town of Simcoe has returned the Roll of the said Town as finally revised at \$505,860. The Town Council contend, that the amount the Town is liable to be rated at, for County purposes, should be six per centum on the said sum of \$505,860, capitalized at ten per centum, which would give \$303,516 instead of \$360,000. The difference in dispute is therefore the sum of \$56,484, (say \$57,000 for convenience of calculation), which if