

davit is necessary, in order that the Clerk may make a return thereof to the foreign Division, and in that attendance I see an equivalent for the extra shilling.

Knowing your willingness to give information on these matters, and being persuaded that your opinion thereon is "*ex cathedra*," and will finally settle the point, I submit it for your interpretation, and remain,

Gentlemen,
Most respectfully yours,
J. H.

[We agree with our correspondent in the reasonable construction he puts on the item referred to in the Tariff, and the practice so far as we are informed is in accordance with his views. However, we shall be happy to hear any communication on the other view which the above question elicits.

Eds. L. J.]

To the Editors of the Law Journal.

LONDON, January 21st, 1859.

GENTLEMEN,—Your opinion on the following in your Journal would much oblige.

Does the cause of action arise where a note falls due and is made payable, although it may have been given in another division?

Your obedient Servant,

JOSEPH JEFFERY,
Bailiff 1st D. C., Middlesex.

[We believe there is a diversity of opinion on this point, but we incline to think that the cause of action arose where the note was given.

A note is the evidence of a debt due by the maker, which debt must have been in existence before the note was given; and it is but reasonable to suppose that this written acknowledgment of it was given where it was contracted.

The question has been asked us before, as our correspondent will see by referring to Vol. 4, page 157, where a number of cases bearing on the point are referred to.—Eds. L. J.]

THE MAGISTRATES' MANUAL.

BY A BARRISTER-AT-LAW—(COPYRIGHT RESERVED).

Continued from page 14, Vol. V.

SUPPLEMENT—SUMMARY TRIALS.

Power of Recorders to try certain offences summarily.—If any person be charged before the Recorder of any City :

1. With having committed simple larceny, and the value of the whole property alleged to have been stolen does not in the judgment of the Recorder exceed five shillings.

2. With having attempted to commit larceny from the person, or simple larceny.

3. With having committed an aggravated assault by unlawfully and maliciously inflicting upon any person, with or without any weapon or instrument, any grievous bodily harm ; or by unlawfully or maliciously cutting, stabbing or wounding any person.

4. With having committed an assault upon any female whatever, or upon any male child, whose age does not in the opinion of the Recorder exceed 14 years, such assault being of a nature which cannot, in the opinion of the Recorder be sufficiently punished before him under any other act, and not amounting, in his opinion, to an assault with intent to commit a rape, if the assault have been on a female.

5. With having assaulted any magistrate, bailiff, constable, or other officer in the lawful performance of his duty, or with intent to prevent the performance thereof.

6. With keeping or being an inmate or habitual frequenter of any disorderly house, house of ill-fame, or bawdy house.

In any such case the Recorder may hear and determine the charge in a summarily way.*

Police Magistrates.—The Police Magistrate of any City in Upper Canada, sitting in open Court, is authorized in the case of persons charged before him, to exercise with regard to the above offences, the same powers as a Recorder.†

Duty of Justices of the Peace in such cases.—If any person be charged before any Justice of the Peace with any of the above mentioned offences, and in the opinion of the Justice the case is proper to be disposed of by a Recorder or Police Magistrate in Upper Canada, the Justice may, if he see fit, remand such person for further examination before the Recorder or nearest Police Magistrate. But the remand must not be made by a Justice of the Peace for Upper Canada before a Recorder or Police Magistrate of Lower Canada, or *vice versa*. A person remanded before the Police Magistrate of any City, may be examined and dealt with by the Recorder of the same City, and so *vice versa* where the remand is before a Recorder.‡

Proceedings if party remanded fail to appear.—If any person suffered to go at large upon entering into such recognizance as the Justice of the Peace is authorized to take on the remand of a party accused, conditioned for his appearance before a Recorder or Police Magistrate, do not afterwards appear pursuant to the recognizance, then it is the duty of the Recorder or Police Magistrate before whom he ought to have appeared, to certify (under his hand) on the back of the recognizance to the Clerk of the Peace for the County or Union of Counties in Upper Canada the fact of such non-appearance, and the recognizance may then be proceeded upon in like manner as other recognizances, and the certificate is to be deemed sufficient *prima facie* evidence of the non-appearance.§

Preliminary duty of Recorder, &c.—Whenever the Recorder or Police Magistrate proposes to dispose of the case summarily, after ascertaining the nature and extent of the charge, but before the formal examination of witnesses for the prosecution, and before calling on the party charged for any statement he may wish to make, it is the duty of the Recorder or Police Magistrate to state to such person the substance of the charge against him, and to say to him these words, or words to the like effect : " Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by jury at the (naming the Court at which it could so next be tried)."||

Hearing of the charge.—If the person accused consent to the charge being summarily tried and determined, it is next the duty of the Recorder or Police Magistrate to reduce the charge into writing and read the same to the ac-

* 20 Vic. cap. 27 sec. 1 ; and 22 Vic. cap. 27, sec. 1.

† 20 Vic. cap. 27 sec. 14. ‡ 20 Vic. cap. 27 sec. 5.

§ 20 Vic. cap. 27. sec. 6. || 22 Vic. cap. 27 sec. 3.