

from. It is in effect nearly the same provision as that contained in sec. 71 of the Division Courts' Act, namely, that "the writ may issue from the Division Court for the division within which the defendant or one of the defendants resides or carries on business, or where the goods or other property or effects have been distrained, taken or detained."

In some cases a plaintiff is restricted by statute to laying his action in a particular locality, and in such cases the direction of the statute must be followed. Thus in actions against justices of the peace, or against any other person or officer, or person fulfilling any public duty, for anything done by him in the performance of such public duty, it is provided how the venue is to be laid, and "in every such action the venue shall be laid in the county where the act complained of was committed, and in actions in the County and Division Courts the action must be brought in the county or division within which the act committed, or in which the defendant resides:" (cap. 126, Consol. Stats. U. C.)

## MAGISTRATES, MUNICIPAL & COMMON SCHOOL LAW.

### NOTES OF NEW DECISIONS AND LEADING CASES.

**MAGISTRATES—JURISDICTION.**—The jurisdiction of justices of the peace is not ousted by the accused setting up a claim of right which cannot by law exist: (*Hudson v. McRae*, 33 L. J. N. S. 65.)

**MAGISTRATES—DISCRETION.**—Where a statute gives to justices a discretion whether they will do a particular thing, it does not enable them, having heard the case, to refuse a warrant because they think the law under which they are called upon to act is unjust: (*Reg. v. Boteler et al.*, 33 L. J. N. S. M. C. 101.)

**ELECTIONS—PERSONATING A VOTER.**—To complete the offence of inducing a person to personate a voter at a municipal election, under the Imperial act 22 Vic. ch. 35, s. 9, it is not necessary that the personation should be successful; and a conviction for the offence was held good, though it did not set out the mode or facts of the inducement: (*Reg. v. Hague*, 12 W. R. 310.)

**TRESPASS—AIDER AND ABETTOR—PERSONS ENGAGED IN A COMMON PURPOSE.**—I. and T. were driving in a trap along the turnpike road, for a lawful purpose. I. got out of the trap, went into

a field, and shot a hare, which he gave to T., who had remained in the trap. I. having been convicted of trespass in pursuit of game, an information was laid under the 11 & 12 Vic. c. 43, against T., charging him with being present, aiding and abetting. On a case stated by the justices, it was held that there was abundant evidence on which the justices might have come to the conclusion that both were engaged in a common purpose, and that T. was guilty: (*Stacey v. Whitehurst*, 13 W. R. 384.)

**MUNICIPAL ELECTIONS—DISQUALIFICATION—CONTRACT WITH CORPORATION.**—The defendant was elected alderman for a ward in the city of Hamilton. It appeared that before election he had tendered for some painting and glazing required for the city hospital, that his tender was accepted, and that he had completed a portion of the work for which he had not been paid. A written contract had been drawn up by the city solicitor, but not signed by the defendant, and he swore that before the election he informed the mayor that he did not intend to go on with the work. Held (reversing the judgment in chambers) that the defendant was disqualified as a contractor with the corporation; that it was immaterial whether the contract would be binding on the corporation or not, and that his disclaimer could have no effect. (*Regina ex rel. Moore v. Miller*, 14 U. C. Q. B. 465.)

A township councillor being a contractor with the county, and having been elected a deputy reeve, was held disqualified from taking his seat in the county council: (*Reg. ex rel. Lutz v. Williamson*, 1 U. C. Prac. R. 194.)

Where it appeared that the defendant at the time of his election as councillor had a claim upon the city for certain work done by him under a contract with the corporation, held that he was disqualified: (*Reg. ex rel. Davis v. Carruthers*, 1 U. C. Prac. R. 114.)

## SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

### NOTES OF NEW DECISIONS AND LEADING CASES.

**NUISANCE TO LAND.**—Every man is bound to use his own property in such a manner as not to injure the property of his neighbour, unless, by lapse of time, he has acquired a prescriptive right to do so. The law does not regard trifling inconveniences, and every thing must be looked at from a reasonable point of view. In an action for a nuisance to property by noxious vapours,