of security for costs, in cases where foreigners within the jurisdiction were suing in the English Courts—a subject lately discussed in this journal. With colonial deference for English precedents, it will be rather a nice matter for our judges now to say what court or what practice they will follow. We have no reported decisions on the section in question, but the practice, as we understand, has always been in Ontario to hold that it must be shown that the whole cause of action arose within the Province. But suppose a case now to be brought before the judges in term—how would they decide? Follow the holding of the Queen's Bench, as has often been done in matters of practice, where the English Courts were at variance? (Per Robinson, C.J., in *Gill* v. *Hodgson*, 1 Prac. R. 381). Or, hold that the decisions of the Common Pleas, *plus* the later decisions of the Exchequer, outweigh those of the Bench? It seems to us that the true way out of the quandary is the eminently sensible course adopted by Mr. Justice Wilson, in *Hawkins* v. *Paterson*, 3 P. R. 264, where he says, "I am not prepared to adopt as a rule that we are to follow the decisions of the Queen's Bench, in England, more than those of the other courts. * * I think we should exercise our own judgment as to which is the best rule and practice to adopt, if there be a difference in the English Courts, and adopt that which will be the most convenient and suitable for ourselves, whether it shall be the decision of the one court or the other."

In that case the learned judge gave effect to the practice of the Courts of Common Pleas and Exchequer as against that of the Queen's Bench. In the present conflict we incline to think (if we may speak without presumption, where great masters of the law differ) that the practice of the Queen's Bench should be preferred to that of the other common law courts. As a matter of verbal interpretation, we think "cause of action" should be taken o mean the *whole* cause of action. Such has been the uniform meaning attributed to it when used in the English County Courts Act and in our Division Courts Act.

Again, to hold that provincial courts can entertain a suit against a foreigner where, for instance, only the breach of contract has taken place within the jurisdiction and he is not personally served, may give rise to very grave questions of what is clumsily called "private international law," in case the defendant has no assets within the province and it is sought to make him liable on the judgment so obtained in the forum of his domicile.

This is just one of those troublesome questions that can only be settled by a gradual course of decision. As it is merely a matter of practice, it is thereby excluded from being a subject of error or appeal, so that each court is left to independent action, and to do what seems right in its own eyes.

SELECTIONS.

Iowa has added herself to the list of States which have abolished capital punishment. In that State all crimes heretofore punishable with death shall, hereafter, be punished by imprisonment for life at hard labor in the State penitentiary, and the governor shall grant no pardons, except on recommendation of the general assembly.

The tendency of modern philanthropy is to make punishment for crime as easy as posible, in a physical point of view. Granting everything that may be said, in a general way, in favor of improved modes of punishing crimes we think that the danger is upon us of making the doom of criminals too easy, physically.

Death is the severest physical injury that can befall a human being, and it is only in the extremest cases that such a punishment should be inflicted at all. But we have been able to find no adequate reason for abandoning the custom of ages of putting one to death who wilfully and deliberately kills another. In such a case, at least, we believe in the strict *lex talionis*, the doctrine of "an eye for an eye," "a tooth for a tooth," a "life for a life," not to exact retribution (for that cannot be), but for the safety of society. Self-preservation is the first and strongest law of nature; and the professional criminal, at least, will run more chances of being imprisoned for life, than of being hung immediately on conviction. The laws specifying what crimes shall be punished by death, and regulating the execution of criminals condemned to death, may and ought to be, *modified* in many instances, but the total abolition of capital punishment is a dangerous experiment.—*Albany Law Journal.*

It has recently been decided in the Supreme Court of Main, that the following instrument is a negotiable promissory note, payable to bearer, for the amount named in it:

"Nobleboro', October 4, 1869. Nathaniel O. Winslow. By labor 16¼ days, @ $4 per day, $67. Good to bearer. Wm. Vannah."