much delay and trouble to the judge. The mode of getting the judge's certificate upon the executions in this county is, I think, as easy and correct a system as can be adopted, viz.; An execution creditor goes to the clerk and orders out the execution, and wants the judge's certificate endorsed thereon. The clerk turns to the suit, makes out the execution, and, if judgment were obtained since 19th May, 1860, and examines the original claim, which shows when the debt was contracted, takes the necessary postage from plaintiff, and transmits the execution by first mail to the judge, telling the judge that the debt for which the enclosed execution was issued was contracted before the 19th May, 1860. If the judgment was obtained before that time it is so stated in the body of the execution, and no certificate is required from the clerk, except that the judgment is not for tort, &c., which I think certainly the best evidence the judge can have necessary for his order, as the clerk cannot err as to the date of the contraction of the debt. Why not then allow the clerk's certificate upon the execution to answer every purpose, inasmuch as the judge has to be be guided by the clerk's certificate before he endorses the execution? My court is only 20 miles from the judge, with a a daily mail, and it takes till the third day after mailing the execution to the judge to get it back, with the judge's certificate ready for the bailiff; which delay often is to the predjudice of the execution creditor, as many persons have plenty of property one day, and two or three days afterwards have none.

It certainly cannot be argued that to simply allow the clerk's certificate upon the execution, would be placing too much power in their hands; if so, then it is equally wrong for a clerk to issue any process without an order from the judge. If a clerk would make a false statement upon the execution he would do so to the judge, which would not occur without some exposure. For instance: supposing a clerk misinform the judge, and procure his order, I ask, when the bailiff went to levy, if he (the debtor) would not know at once when the debt was contracted? and if he was imposed upon, would very soon go and see the judge to tell him that he had made a mistake in his certificate; and if correct, I fancy it would not be well for such clerk. And just the same would apply if clerks were empowered to make the certificate. If any clerk would certify upon an execution that a debt was contracted before the 19th May, 1860, and the bailiff sell under that execution, and it turns out that the debt was contracted since that date, I apprehend that the clerk and his sureties would be liable for damages, as on any other illegal process.

If any one will show me the use of imposing all this extra trouble upon the judge, then I will say it is a wise enactment.

The mode I have adopted on "transcripts and certificates" to other courts is, I require the plaintiff to make an affidavit that the "debt was, &c.," which I attach to the "transcript and certificate," requesting the clerk to whom I send it to forward said affidavit with his "execution on transcript" to the judge in his county, which I should think would be sufficient evidence for the judge to grant the certificate; which I think a much shorter process than for the clerk to mail it to the home judge for his certificate, who would have to remail it again to the foreign clerk, and for the foreign clerk to mail again to his judge, &c. Furthermore, a judge is not asked by the act to certify only *upon the execution*, and upon a transcript going to another county. I don't see how the judge of the county where the judgment was obtained could be called upon to make any certificate.

As you very kindly solicited remarks from correspondents on this subject, I have taken the liberty of sending you the foregoing for publication.

Yours, &c.,

CLERK 6TH DIV. COURT, Co. NORFOLK.

To the Editors of the Law Journal.

GENTLEMEN:—As your Journal is the only medium through which unfortunate country law practitioners can acquire any valuable information upon the practice of the Division Courts; and as you, hitherto, have always evinced a great readiness to devote time and space, for any thing pertaining to these Courts, I without any hesitation ask your opinion upon the *proper* practice in the following case:—

A has a claim against B for damages to the extent of $40, and also a claim against the same person for $100, for rent due on a lease. From his position he was obliged to sue on both claims. He brought his action for damages at one court, and at the following court sued for his rent. The Judge decided, that under the 59th clause, cap. 19, Con. Stat. U. C., the plaintiff (A) was barred from suing on his claim for rent, as he considered that the bringing of *two* actions was a dividing of the cause of action, within the meaning of this section, holding that the word "cause" *meant causes.*

Is it a dividing, where there are *two distinct causes of action?*

Yours, &c.,

Nov. 8th, 1861. ALPHA.

[The words "cause of action," as used in the section to which our correspondent refers, mean "cause of *one* action;" and no court, to our knowledge, has yet gone the length of saying that when two causes of action *may* be joined they *must* be joined. We refer to *Neale* v. *Ellis*, 1 D. & L. 163; *Brunskill* v. *Powell*, 19 & J. Ex. 362; *Grimsby* v. *Aykroyd*, 1 Ex. 407; *Wickham* v. *Lee*, 12 Q.B. 821; *Kempton* v. *Wiley*, 9 C. B. 719; *Bonsey* v. *Wordsworth*, 18 C. B. 525.—EDS. L. J.]

U. C. REPORTS.

QUEEN'S BENCH.

Reported by CHRISTOPHER ROBINSON, Esq., *Barrister-at-Law.*

IN THE MATTER OF THE JUDGE OF THE COUNTY COURT OF ELGIN.

Refusal of Judge to act—Application for mandamus—Interest of Judge and relationship to parties.

A garnishee summons having issued in a county court suit, one H. opposed it as assignee of the judgment debtor, and in answer to his claim an affidavit was filed from which it would appear that the judge was interested with H. in his claim. He then declined to act further in the matter, and after several subsequent meetings signed a memorandum, stating as an additional reason for refusing to proceed the fact that H. was his brother-in-law.

The court under these circumstances refused a mandamus to compel the judge to dispose of the case.

(Easter Term, 24 Vic., 1861.

In Hilary term last *Richards*, Q. C., obtained a rule *nisi* calling upon Mr. Hughes, as judge of the county court of the county of Elgin, to shew cause why a writ of mandamus should not issue commanding him to grant a summons as such judge to one John Allworth, in a suit in the said court wherein Allworth was plaintiff and one Wegg and others defendants, and one Patrick Burke was garnishee, and to proceed upon and dispose of the application according to the 289th and following sections of the Common Law Procedure Act.

During this term *John Wilson*, Q. C., shewed cause.

The facts of the case are fully stated in the judgments.

MCLEAN, J.—On this application affidavits have been filed with a view to inform the court of the precise state of the proceedings, and the cause of staying such proceedings in the county court of Elgin, and it is not difficult to perceive that much of the difficulty which has occurred has arisen from the terms on which the parties are with each other, and which it is much to be feared manifest themselves even in the ordinary proceedings of the court.

In this case an order was applied for to attach a debt due by one Patrick Burke to one Asa Howard, to answer on a judgment recovered by John Allworth against Asa Howard and two other parties. The usual attaching order was granted and served on Burke, the garnishee, and a summons calling on the garnishee to appear and shew cause why he should not pay over that debt, or so