parte, could not be enforced although made a rule of the Court under section 17. Lord Justice Brett upheld his previous decision, and was supported by Lord Justice Bowen. This decision cannot but be viewed with regret, and it may be questioned whether there is not enough in the Common Law Procedure Act, 1854, to shew a contrary intention. For example, section 11 allows an action to be stayed when there is an agreement to refer its subject matter, whether the submission is agreed to be made a rule of Court or not. Thus an action might be stayed, and yet an arbitration could not proceed, because the reluctant party revoked. In such a case the order staying the action would probably be rescinded, but the section evidently contemplates the stay of the action in order to enable the arbitration to proceed as if there was no reason why the arbitration should not proceed. The point is of sufficient importance to be taken to the House of Lords, although probably that tribunal would be reluctant to interfere with a branch of law analogous to practice which has existed for twelve years. The proper course would be for the Legislature to interfere, codifying the whole law on the subject, and removing this among other blots.—*Law Journal.*

REPORTS.

ONTARIO.

(Reported for the CANADA LAW JOURNAL.)

COUNTY COURT OF THE COUNTY OF LINCOLN.

HALLADAY v. JOHNSON.

Bastardy—Affidavit of affiliation—R. S. O. cap. 131, sec. 3—Jurisdiction of county magistrates in cities.

A justice of the peace for a county can take an affidavit of affiliation when the mother resides in a city within such county.

[St. Catharines.

This was an action brought under R. S. O. cap. 131 against the defendant, as the father of an illegitimate child, to recover the value of food and other necessaries furnished by the plaintiff to the child.

The mother of the child was the daughter of the plaintiff. The question whether the defendant was the father was left to the jury who found against the defendant. A question was raised at the trial as to the sufficiency of the affidavit which had been made by the mother of the child in supposed conformity with the 3rd section of the statute, and upon this point a motion was made that judgment should be entered for the defendant.

The mother of the child at the time of the seduction, which she says took place in May, 1881, resided in the city of St. Catharines, where her father also resided (she was then at service in a family in the same place), and continued to reside there until the month of August, 1881, when she went to Rochester where the child was born in January, 1882. In February, 1882, she returned to St. Catharines, and continued to live there ever since.

On the 12th April, 1882, she made the affidavit before Josiah Holmes, a J.P. for the county of Lincoln, the oath being administered in the city of St. Catharines, and the affidavit was deposited by her with the City Clerk of St. Catharines on the 13th April, 1882, and a duplicate was deposited with the Clerk of the Peace for the County of Lincoln on the 18th of May, 1882.

The objection taken to the affidavit was, that as the mother of the child resided, at the time she made the affidavit, in the city of St. Catharines, the affidavit should have been sworn before a justice of the peace for the city, and that Mr. Holmes, being only a justice of the peace named in the commission of the county of Lincoln, and not being named in any commission for the city of St. Catharines, was not a justice for the city, and consequently not competent to take the affidavit, and at all events he could not take it in the city.

SENKLER, Co. J.—The 3rd section of cap. 131 of R. S. O. is as follows:—No action shall be sustained under the two last sections, unless it is shewn upon the trial thereof that while the mother of the child was pregnant or within six months after the birth of her child she did not voluntarily make an affidavit in writing before some one of her Majesty's justices of the peace for the county or city in which she resides,