

more than one dft., wherein one of the dfts. shall dwell or carry on his business at the time when the action is brought. Sec. 8. In the case of officers, it is provided that where a Clerk or Bailiff, either by himself or jointly with another person, is liable to be sued, or may sue for a demand within the jurisdiction of the Court, in every such case the Clerk or Bailiff may sue or be sued in any next adjoining D.C. for the same County. D.C. Act of 1850, sec. 62.

Where a case is commenced by suing out an attachment against a dft. as an absconding debtor, the proceedings in the suit may be conducted to judgment and execution in the D.C. holden for the Division in which the warrant of attachment was issued. D.C. Act of 1850, sec. 64.

Where an intended dft. *does not live in the Division or County* in which the plt. wishes to bring his action, the D.C. Acts have provided for two distinct cases; 1st, where the suit is to be brought in the Court holden for the Division in which the cause of action arose; 2nd, where it is more convenient and less expensive to bring the action in a particular D.C. than in the one adjoining, (whether in the same or another county) in which the dft. resides. In the former case the plt. may, as a matter of right, enter his suit in the Division in which the cause of action arose—taking care to enter it so as to give ample time for service, from twenty to thirty days—according to the distance from the place where the dft. resides. In the latter case he must obtain an order from the Judge for leave to bring his action in an adjoining Division. This leave is obtained either on a written affidavit which the Clerk will draw, or on personal application to the Judge at any sitting of the Court. D.C.E. Act, secs. 8 & 9; D.C.E. Act of 1855, sec. 1.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A J. P.

(Continued from page 64.)

THE NAME AND STYLE OF JUSTICES BEFORE WHOM INFORMATION LAID, AND THE DATE AND PLACE OF EXHIBITING IT.

The information or complaint should contain the name and style of the Justices before whom it is laid, that it may appear he is one having authority in the County or locality, and over the subject matter of the complaint; (1) and also that he is one having authority to take the information under the particular statute, for, as before observed, the jurisdiction for summary conviction is sometimes quali-

fied with respect to the numbers or description of Justices to whom it is committed, and when so qualified must be exercised in conformity with the directions in the statute conferring it. (2) Stating the Justice to be one "for" instead of of "in and for" a County has been held to be bad. (3)

It is to be observed that under the 16th Vic., ch. 178, one Justice is competent to receive the information or complaint; sec. 25 of this Statute thus enacting on the subject:—

"That in all cases of Summary proceedings before a Justice or Justices of the Peace out of Sessions, upon any information or complaint as aforesaid, it shall be lawful for one Justice to receive such information or complaint, and to grant a Summons or Warrant thereon, and to issue his Summons or Warrant to compel the attendance of any witnesses, and to do all other acts and matters which may be necessary, preliminary to the hearing, even in cases where by the Statute in that behalf such information and complaint must be heard and determined by two or more Justices, and after the case shall have been so heard and determined, one Justice may issue all Warrants of Distress or Commitment thereon; and it shall not be necessary that the Justice who so acts before or after such hearing, shall be the Justice or one of the Justices by whom the said case shall be heard and determined: Provided always, that in all cases where by Statute it is or shall be required that any such information or complaint shall be heard and determined by two or more Justices, or that a Conviction or Order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case."

The day and year on which the information is laid should properly be stated, that it may appear it was so laid subsequent to the commissioner of the offence, and within the time limited by the Statute. (4) And the place where laid should be inserted, that it may appear the Justice is acting within the limits of his jurisdiction; (5) for though in general it is not necessary to prove the place exactly as laid, yet it must be shown to be within the jurisdiction of the Magistrate.

THE NAME, &C., OF THE DEFENDANT.

The full name of every dft. should be accurately stated when possible. Stating a number of dfts. as Messrs. H. "and Company" was held bad, Lord Kenyon saying, in *Reg. v. Harrison*, 8 T.R. 508:—"It is impossible that a conviction of such an one and Company can be supported." If it be impossible to ascertain the name of a party offending, his description should be stated, and at the hearing his proper name can be ascertained. Where two or

(2) See *ante* page 24. This is certainly a material distinction between information and a conviction, and it may be that if in fact the information is laid before the proper Justice it would be sufficient, although his exact authority was not stated in the information. Yet as the conviction is founded on and should pursue the information, the regular course is to show in the latter the Magistrate's authority.

(3) *Reg. v. Stockton*, 2 New Sess. cas. 16. 14 L. J. 126 M. C., but the effect of the 1st sec. of 16 Vic., ch. 178, on the rule laid down in this case is to be regarded.

(4) See *ante* page 24. Stat. 16 Vic., ch. 178, section 8, enacts that variations as to the time when offence, &c., alleged to have been committed shall not be deemed material if the information was in fact laid within the time limited by law; but as a wrong statement of this kind is calculated to mislead, an error might entail expense on the informant, so accuracy on this point is material.

(5) See page 24 and the reference in Notes (c) and (p).

(1) *Reg. v. Johnson*, 1 Str. 261.—*Kite and Lane's case*, 1 B. & C. 101—*Re Peard*, 1 Q. B. 113.