A defendant once examined and discharged could not be again summoned, except the Judge was satisfied on affidavit that new ground existed for a further examination; and, as a general rule, the examination was to be in the Judge's Chambers and not in open court. Thus these provisions were guarded against the possibility of abuses in administration, and were strictly confined to their legitimate uses—the discovery of property withheld or concealed—the enforcement of such satisfaction as the debtor was able to give, and the punishment of fraud.

This brings us to the Consolidated Act 22 Vic. cap. 19, by the which the Division Courts are now regulated. Of this statute, it is sufficient to say here that it was substituted for the existing acts already noticed, which were all repealed, and that, without operating as a new law, it settled many doubtful points in the repealed acts it replaced, and the matter of these repealed acts it embodied in a revised and condensed form.

Such, in brief outline, is the statutory history of an important branch in the general system of local jurisprudence established in Upper Canada.

(*To be continued.*)

A FEW "VEXED QUESTIONS."

In the last number appeared a communication from Mr. Durand, under the above caption. We have heard from some of our correspondents in respect to them, and find, as Mr. Durand says, that a great difference of opinion prevails, particularly in reference to the first question.

According to our judgment, the giving a transcript of a judgment from the court in which it was obtained, does not do away with it as a judgment of that court. The effect would probably be held to be a suspension of the right to act on the judgment in the original court, till return made of the transcript. The terms of sec. 139 are to "*enter* the transcript in a book to be kept for the purpose," and the amount due *on the judgment* (*i. e.* in the original court) according to the certificate. The clause then goes on to say, "all proceedings may be taken for enforcing and collecting the judgment in such last mentioned court by the officers thereof, that could be had or taken for like purposes upon judgment recovered in any division court:" the effect of which seems to be that in the court to which the transcript sent, the same proceedings may be taken on the judgment *as if* it was a judgment of that court. It is obvious that there cannot be two or more judgments in force at the same time, and there is nothing to show that the proceeding in aid, by transcript, transfers the judgment. We think the return of *nulla bona* in the case put, would justify the action desired of the Toronto clerk. This is just one of the cases that ought to be settled by rule of the board of judges. On the whole we think Mr. Durand's view is the correct one.

2nd. Query? *Payment of money into court on a tender previously made.*

In the case put, we think that it is in the power of the Judge to grant an adjournment for the purpose of giving the notice. The words (sec. 88) "and all proceedings in the said action shall be stayed, unless," &c., by no means imply that the suit is necessarilly at an end. The word "*stayed*" on the contrary seems to convey the idea that the proceedings are to remain in *statu quo* until further order. Indeed there is room to contend that an express order from the judge is necessary to give effect to the provision.

If we look at sec. 179, the same language occurs, "and thereupon any action in the superior courts, in respect to such claim, shall be stayed." &c. Would it not be necessary under this section to apply to a judge in Chambers to stay proceedings in the action?

The power to adjourn is rendered still more clear by sec. 86 of the statute which enacts that in case the judge thinks it conducive to the ends of justice, *he may adjourn* the hearing of any case in order to permit a necessary notice to be served or to enable a party to *enter more fully into his case, or for any other cause which the judge thinks reasonable*, which is to be done on such equitable terms as to the judge may seem meet.

3rd. Query? *As to dividing causes of action.*

The cases put would not be within sec. 59 of the act which provides that "a cause of action shall not be divided into two or more suits for the purpose of bringing the same within the jurisdiction," &c. There is no necessary connection between the note and the account, nor yet between the account and the action for damages, but the items of a running account could not be divided. *Grimbly* v. *Aykroyd*, 1 Ex. 479, and *Wickham* v. *Lee*, 12 Q. B., 521, are leading cases on the subject of splitting demands.

On the fourth subject referred to by Mr. Durand, we cannot supplement the suggestion he offers.

We shall be happy to hear from Mr. Durand on the other unsettled points in the Division Court law to which he refers.

To the Editors of the Law Journal.

GENTLEMEN,—You having wished for any useful suggestions relative to the Division Courts, I take the liberty of making some. I give known facts acquired from experience, and they are by no means exceptions. It is right and proper that plaintiffs should know what they have to meet on Court-day, whether a defence or not. As an illustration, A. sues B. on an account for goods sold and delivered by three different clerks, he brought those three witnesses on Court-day a distance of twelve miles. On the case being called, the defendant answered and said the claim was right, consequently judgment was given without calling the witnesses, and I allowed the costs of these witnesses on the plaintiff's affidavit that they were necessary, and came for no other purpose than to give evidence in the cause. Again, C. sues D. and D. told plaintiff he would not dispute the claim; on Court-day plaintiff brought no witnesses. On the cause being called, defendant appeared by an agent and denied the claim, consequently the plaintiff applied and got leave to put off the trial on payment of costs of day. On the cause being called on next Court, the plaintiff appeard with his witnesses prepared to prove his claim, but defendant did not appear and the plaintiff's witnesses were not required.

These are great evils and now for the remedy. I would require appearances to be filed with the clerk a given number of days after service, the same as in the County Court, and I venture to say there would be less litigation on Court-days, and a saving to suitors of thousands of dollars in a year. Really defendants come to Court, under the present system, without any intention of defending, and when they find the plaintiff has no witnesses, then they deny and apply for remuneration, and often get it If defendants were compelled to make known their intentions in time, delay and expense would be avoided. I see no necessity of waiting until Court-day for judgment. Where there is no appearance, let the Clerk, in default of appearance, enter judgment at once, and not put the Court to the trouble of passing judgment in open Court, and defendants to the humility of hearing their names