

THE JURISDICTION OF THE COURTS OF GENERAL SESSIONS OF THE PEACE.

new trial, however, was granted with leave to amend, and Rose, J., therefore refrained from giving any opinion on the point of practice.

It might be said that as regards purely common law demands the rules of the common law as altered by statute are still to prevail. But the fact is that even prior to the Judicature Act the Court of Chancery had by statute acquired a complete concurrent jurisdiction with the courts of law in all civil proceedings (R. S. O. c. 49. s. 21).

Prior to the Judicature Act, therefore, the Court of Chancery could have entertained jurisdiction to enforce payment of a purely common law demand, and would have applied to a suit brought in respect of such a cause of action the same rule as to parties as it applied to other suits within its jurisdiction. The R. S. O. c. 116, though it enlarged the jurisdiction of courts of law by enabling them to entertain suits by assignees of choses in action in certain cases, did not, according to well understood equity doctrine, deprive the Court of Chancery of jurisdiction, or alter or interfere with its procedure. It gave in effect a legal status to the assignee, where before he had a merely equitable one. This enlarged the jurisdiction of the courts of law but did not affect the jurisdiction of the Court of Chancery.

We are inclined to think, therefore, that the question of parties to actions to recover choses in action which have been assigned, is now governed not exclusively by the statute R. S. O. c. 116, but rather by the practice formerly prevailing in the Court of Chancery as modified by the R. S. O. c. 116. For example, as we have seen in suits respecting legal choses in action, the assignor was, in equity, a necessary party even though the assignment were absolute, because he would not otherwise be barred from proceeding at law, but since the statute, R. S. O. c. 116, in those cases

where the assignee acquires a legal title that reason would no longer prevail, and the presence of the assignor might, therefore, be dispensed with.

The question, it appears to us, is no longer whether in a court of law an assignee could have sued alone, but whether in a court of equity he could have sued alone, and each Division of the High Court being as we have said a court of law and equity is bound to see that according to the principles of equity the proper parties are before it.

*JURISDICTION OF THE COURTS
OF GENERAL SESSIONS OF THE
PEACE IN ONTARIO.*

The office of Justice of the Peace and the Court of Quarter Sessions were evidently in existence in what is now the Province of Ontario before the meeting of the first Parliament of the Province of Upper Canada. This is clear from the language of several of the statutes passed at the first session of this Parliament which met at Niagara on the 17th September, 1792. By chapter 5 the magistrates of each and every district in the Province in Quarter Sessions assembled were empowered to make orders and regulations for the prevention of accidental fires within the same. By chapter 6 any two or more justices of the peace, acting under and by virtue of his Majesty's commission within the respective limits of their said commissions, were empowered to hold Courts of Request within their respective divisions, which divisions were to be ascertained and limited by the justices assembled in General Quarter Sessions, and by chapter 8 the justices of the peace for the several districts in Quarter Sessions assembled were authorized to procure plans and elevations of a gaol and court house, and approve of one of