cause of action arose, not where the goods were ordered, but where they were delivered. It is not necessary that every particular connected with the contract should take place within the district. He cited *Emery* v. *Bartlett*, 2 Ld. Raym, 1555.

JERVIS, C. J.—I am of opinion that the county court judge was wrong. The expression, "cause of action," in sect. 60, means the whole cause of action. The question then is, did the whole cause of action arise in Manchester? To sustain their case, the plaintiffs, in addition to proving the delivery of the goods, would have had to prove the order for them. Now, that order was given at Oxford. Therefore, the whole cause of action did not arise within the Manchester district. The plaintiffs ought to be nonsuited.

MAULE, J.—I entirely agree in opinion. It is manifest that, according to the natural construction of the term, "cause of action," in sect. 60, the whole cause of action is meant. A defendant may be sued where he resides or has resided for the last six months, or where the whole cause of action arose, but not in a district in which he has not resided, in which only part of the cause of action arose.

CRESSWELL, J., and WILLIAMS, J., concurred.

Appeal allowed.

DRAKE AND OTHERS, ATTACHING CREDITORS, PLAINTIFFS,

v.

PARLEE, AN ABSCONDING DEBTOR, DEFENDANT.

(County of Elgin.—D. J. Hughes, Judge.)

Interpleader.

The claimant was summoned touching a claim made by him to goods seized under these attachments, he being an execution creditor on a Judgment recovered after the defendant absconded. The attachments were issued on the 19th April, 1855.

The claimant's Fi. Fa. came to the Sheriff's hands on 1st May, 1855; the judgment in the County Court was commenced by non-bailable process, and defendant served therewith before he absconded. Before executions were issued on the attaching creditors' judgments, the claimant's *fieri facias* issued against the defendant's goods and chattels.

The claimant insisted at the hearing of this Interpleader Summons that he was entitled to priority over the attaching creditors, because the defendant had been served with process of the County Court (which resulted in the recovery of a judgment for the claimant) previous to the issuing of the Attachments, and cited Bank of British N. A. *v.* Jarvis, 1 U. C. R. 182.

Mr. Nichol, for the attaching creditors, contended—1st. That the 4th clause, 5 Wm. IV. ch. 5, only applies to attachments issued under the Absconding Debtors' Acts, 2 Wm. IV. ch. 5, and 5 Wm. IV. ch. 5, and not to those issued under the authority of the Div. Courts Act of 1850.

2nd. That process issued from the County or Superior Courts does not nullify the writ of this Court, or supersede the effect of attachments issued by its authority.

3rd. That the process of each Court is independent each of the other.

4th. That the 66th clause of 13 & 14 Vic. ch. 53, vests all the property seized under the authority of that clause in the Clerk of the Court from whence the process issues, who is to hold it until all the attaching creditors for whose benefit the seizure was made are satisfied their claims, or until sold and disposed of for their benefit; and cited Ex parte MacDonald, *U. C. Law Journal 77*, in re. Mawhinney.

Per Hughes, J.—The various clauses of 13 & 14 Vic. ch. 53, bearing upon the subject of absconding debtors, are the 64, 65, 66, 67, 68, and 71st; and after a careful perusal of them, I am satisfied that upon all the points Mr. Nichol is right in what he has urged for the attaching creditors.

I admit that the case before me presents an anomaly as regards the several Statutes relating to absconding debtors; for whilst I see the principle established by all of them that a preference shall be given to a certain class of creditors under certain circumstances, a superior preference is recognized in favour of the suitors of the particular Court which may happen to have cognizance of their claims; on the one hand it goes the length, so far as I can see, of justifying the holding the whole property of an absconding debtor in this Court for the benefit of those who shall come in within *one* month to sue out attachments, (providing there has been no process served in any suit *in this Court* previous to the debtor's departure) and for those only—to the exclusion of the attaching creditors of any other Court, until those of this Court are satisfied: and on the other hand, the property is seized by the Sheriff on Attachments issued from the different Superior Courts, and held by him for the benefit of all those who shall sue out and place in his hands Attachments within six months from the issuing the first attachment, provided the debtor has not been served with bailable or non-bailable process previous to his departure, whereon proceedings have been based that have led to a judgment recorded by the plaintiff therein.

I am satisfied that the 64 section of the D. C. Act of 1850 makes an exception in favour of persons who have commenced proceedings in this Court against persons before they abscond, and before the issuing of an Attachment under that section, by giving the creditors who are already in Court a priority in execution. I do not think, however, that priority is intended to be given to any other than Division Court suitors; or that the Clerk of the Division Court holds the property, or the proceeds of its sale, in trust for the benefit of any other than judgment creditors, or attaching suitors who afterwards obtain judgments in the Division Court, because the second sentence of the second proviso, sec. 64, appears clearly to contemplate suitors in the Division Court only; the words are—"*and that when proceedings shall be commenced in any case before the issuing of an attachment under the provisions of this section, such proceedings may be continued to judgment and execution in the Division Court within which such proceedings may have been commenced; and the property seized upon any such attachment shall be liable to seizure and sale under the execution to be issued upon such judgment, or the proceeds thereof, in case such property shall have been sold as perishable, shall be applied in satisfaction of such judgment.*"

Were the intention of the Legislature otherwise—in order to entitle this claimant to his priority in execution, the word "Division" before the word "Court" would have been omitted in the sentence I have quoted.

The Acts of 2 Wm. IV. ch. 5, and 5 Wm. IV. ch. 5, were passed when there were no courts in existence authorized to issue these Attachments against absconding debtors other than the *Q. B.* and the *C. C.* in Upper Canada; so that on that ground I should say the 4 clause of 5 Wm. IV. ch. 5, does not refer to Attachments issued against absconding debtors generally, but only to those issued by the Superior Courts or *C. C.*

On the whole, for the reasons stated, I am satisfied priority cannot, under the existing laws, be legally set up by this claimant.

[Upon the main point in this case, there is a conflict of decision among the County Judges. We know that the Judge of the County of Simcoe has held the law to be much the