amends, but where there is no by-law, and they have acted, as for instance under the 13 & 14 Victoria, chapter 15, they should, when performing a public duty imposed upon them by act of parliament, have notice before they are sued, as well as individual officers, *Ibid* 290.

The only point of difference and difficulty is whether the 14 & 15 Victoria, chapter 54, now consolidated by the act of Upper Canada, chapter 126, applies only to individual persons, or whether it does not apply also to municipal corporations.

The reasons that are given for confining it only to individual persons, which require special consideration, are:—The second reason above stated in support of the view of the Queen's Bench which covers also the sixth and seventh reasons. The eighth reason of the Queen's Bench applying also to the ninth reason. The Common Pleas, by their first and second reasons, profess to answer the second reason of the Queen's Bench; and by their third, fourth, and fifth reasons, to answer the eighth reason of the Queen's Bench.

The other ground stated why the statute does not apply to municipal corporations would not, in my opinion, prevent the application of the statute to such corporations if the reasons lastly referred to do not alone prevent its application; they are relied upon rather as strengthing the other and principal reasons, and are not I think, stated as sufficient reasons in themselves for excluding the applications of the statute to corporations.

The following authorities will explain the grounds upon which I have formed my opinion. And, firstly, as to the meaning and application of our statute 14 & 15 Victoria, chapter 54, which is now represented by chapter 126 of the Consolidated Statutes for Upper Canada; it applies also clearly to public acts, local acts, and personal acts, not only to public, *local* and *personal* acts.

In *Richards* v. *East*, 15 M. & W. 244, the Building Act 14 George III., chapter 78, was held to be an act of a local and personal nature; local as being confined to local limits, personal as affecting particular descriptions of persons only as distinguished from all the Queen's subjects, and therefore the right of the general issue, and giving the special matter in evidence, provided for by that act, was held to be taken away by the 5 & 6 Victoria, chapter 97, section 5.

There are many cases in which companies are entitled to notice of action before suit is brought.

In *Garton* v. *The Great Western Railway Co.*, El, Bl, & El, 837, the defendants were held to be entitled to notice of action under the words in the act "that no action shall be brought against any *person* for anything done or authorized to be done, &c."—*Boyd* v. *The London and Croydon Railway Co.*, 6 Sc, 461; 2 Jur. 327.

The notice of action required to be given by chapter 126, section 10, is to be "delivered to him, or left for him at his usual place of abode;" and this, it is contended, means a delivery to the party *personally*, which cannot be made in the case of a corporation aggregate, and means also a leaving at a personal residence or abode, while a corporation aggregate can have no place of abode. *Delivering* to him can mean no more than *giving* to the intended defendant, which was the expression in *Ellis Blackburn & Ellis*, 840, and in 2 Jurist, 327, and in both of these cases the corporations were held to be entitled to notice, although the word *person* only was used. I see no difficulty therefore arising from the requirement that the notice is to be *delivered* to the party.

Then as to *the place of abode*. In *Attenborough* v. *Thompson*, 2 H. & N. 559, the *residence* of a party was held to be sufficiently stated by giving his office or place of business, although it usually means *home*, or where the party dwells, or where he eats, drinks, and sleeps.

So *abode* is satisfied in some cases by stating the party's place of business. In *Blackwell* v. *England*, E. & Bl. 547, *Erle* J., said, "*residence* is a word capable of bearing several meanings. The object of the enactment was to enable the party who suspected a fraud to trace the witness; for this purpose, his residence is to be given; Which meaning given to that word will best effectuate that object. I hold it impossible for any one, whose mind is not perverted by too much technical knowledge, to doubt that the purpose is better effectuated by giving the place where the witness passes all his active hours, the place of business; than by giving the place of pernoctation; where the object is different, the meaning of the word may be different."

Id *Adams* v. *The Great Western Railway Co.*, 6 H. & N. 404, in which a great many cases are commented on, it was determined that a corporation can *dwell* at the place its business is carried on.

I find therefore no difficulty in holding the reference to the place of abode as any insuperable bar to the statute in this respect being held to be applicable to corporations.

The 8th reason, before mentioned, is the principal one, why the statute should not be considered as having been extended to municipal corporations, and it is the one which the late Sir James Macaulay said raised "the strongest objection" he had felt to the construction being given to the statute which he had placed upon it.

When a by-law is illegal, and any act is done under it, which, by reason of such illegality, gives a right of action, the 202nd section of the present Municipal Act now requires, in addition to what the former acts required, that not only must the by-law be quashed, and the party wait for one month after it has been quashed before he shall bring his action, but he must also give one month's notice in writing of his intention to bring such action.

This was the principal argument relied upon against the 14 & 15 Victoria, chapter 54, being extended to such cases, because it is said, that if the month's notice in writing were superadded to the time which it would take to quash the by-law, and to the month which must afterwards supervene between the quashing of the by-law and the commencement of the action, the period of six months allowed for bringing the action would almost if not altogether have expired. The present statute has certainly altered the law in this respect, and notice in writing must now be given, not by virtue of chapter 126, but by the special provision of the Municipal Act itself which was probably made to meet the difference of opinion. I do not see, however, that the rights of parties who may have a ground of action are thereby injured, for there is no reason why the month which must have elapsed under the