

for each. Every court is designated by a number prefixed, and each has its own local limits. The court for each division is a distinct court, forming within itself a territorial division for all judicial purposes authorised by the statute.

The superior courts of Common Law have jurisdiction over the whole of Upper Canada, and over all persons residing therein, but the jurisdiction of the division courts is, as a general rule, restrained to cases where the subject matter of dispute arises within the bounds of the particular division or where the defendant resides or carries on business within the division. A partial jurisdiction is given to the superior courts where defendants reside out of the country. And the division courts possess a somewhat analogous power, under certain circumstances, to deal with cases, although neither has the cause of action arisen, nor does the defendant reside or carry on business in the particular division. The rule, as to inferior courts in general, was, that the defendant must reside, *and* the cause of action arise, within the particular local jurisdiction; And under some of the Court of Request's Acts in England, jurisdiction was made to depend on the residence of both plaintiff and defendant. In tracing the progress of the small debts courts in Upper Canada, it has been shewn, that, in the earlier statutes, jurisdiction was at first limited, as in most of the English Courts of Request; that it was gradually extended, and in 1833 that a defendant, if living within the county (district), might be summoned to the court where the debt was contracted. Now, the division court jurisdiction is not governed by the old rule applicable to inferior courts, or by the rule applicable to the superior courts, but by special statutory provisions regulating their procedure; and the law restricting the jurisdiction of inferior courts does not in general apply to the division courts.*

It is now proposed to notice the various provisions of the law in detail that determine the proper court which must or may be resorted to, as competent to entertain a claim, and issue a summons against a defendant.

The court in which claims may be entered does not always depend upon a definite enactment. Some cases are brought within the

local jurisdiction of one or more division courts by force of the several enactments on the subject, others may be so brought under leave from the judge.

The general provision, as to where suits may be entered and tried, is contained in the 71st section of the Act, and is, that any suit cognizable by the courts may be entered and tried,—

A. In the court holden for the division within which the cause of action arose.

B. In the court holden for the division, (1) in which the defendant, or any one of the defendants, resides, or (2) carries on business at the time the action is brought; notwithstanding the defendant or defendants may at such time reside in a county or division (or counties or divisions), different from the one in which the cause of action arose.

MAGISTRATES, MUNICIPAL & COMMON SCHOOL LAW.

NOTES OF NEW DECISIONS AND LEADING CASES.

[Under this head will be placed notes giving in substance new decisions relating to the law as it affects Justices of the Peace, Coroners, County, Town and Township Municipalities, School Trustees, Municipal Officers and Constables, with occasional reference to established cases of general importance, and which may be called leading cases on the branch of the law to which they refer.]

MUNICIPAL ELECTIONS—QUO WARRANTO.—The court refused to disturb a person in the exercise of an office to which he was elected for one year without opposition, the person applying on that behalf having been present at such election and not then objecting to the election of the person now complained against: (*In re Kelly v. Macarow*, 14 U. C. C. P. 313.)

QUASHING BY-LAWS NOT ILLEGAL ON THEIR FACE.—Unless a by-law is illegal on the face of it it is discretionary with the court to say whether, upon extraneous matter, there is such a manifest illegality that it would be unjust that the by-law should stand, or that it had been fraudulently or improperly obtained. And therefore when errors in computation only are shewn in it, even though extensive, the courts will lean strongly to support it, especially when it has been acted on: (*Secord and the Corporation of the County of Lincoln*, 24 U. C. Q. B. 142.)

* What is said in the text relates to transitory actions alone; for, where the venue is local, the action must be brought in the proper county, or in the prescribed division.