

supposed to keep, and that the duties of his own courts were all that he could attend to.

At a subsequent day, the plaintiff's solicitor, not wishing to risk a large estate upon so doubtful a question, got the appointment changed, ordering the meeting to be held before the judge here. In a subsequent case, a similar order to the first was asked for, appointing the meeting to be held in a distant city, before another judge, when the judge of this county, having more maturely answered the question, refused, decidedly, to grant the order, and referred to the words of the interpretation clause of the act; that is, the 4th sub-section of the 12th section, as explaining the words, "*The Judge*," and the words, "*or any other Judge*" (where they respectively occur) in the 13, 14, 17, 18, 19, 20, 21, & 23rd sub-sections of the same act. That by the 4th sub-section of the 12th section, those words, as applicable to Lower Canada, may be understood, because it is well known that the judges of the Superior Courts of Lower Canada have not merely jurisdiction over a county, for there are several Superior Court judges having jurisdiction equally over the same section or territory, which is not the case in Upper Canada, unless there is a junior judge in the same county with the senior judge; that the jurisdiction in Upper Canada is purely local, confined to one county, held only by resident judges, and that, therefore, whilst the words "*any other Judge*" may mean a junior or a deputy judge of the *same* county, they could not be intended to mean a judge of the County Court of *another* county, because he could not by any reasonable intendment be held to be the judge of the County Court of the county in which the proceedings are carried on.

And again, that supposing the 13th sub-section might authorize the meeting of creditors to take place before such other judge, that "*other Judge*" could only take the advice of the creditors upon the appointment of an official assignee; he could not *appoint* the assignee, because the 14th sub-section provides that "at the time and place appointed, and on hearing the advice of the creditors present upon oath," &c., "*The Judge*" (and not the "*other Judge*") shall appoint, &c. \*\*\* and if the creditors are not unanimous, then "*the Judge*" may appoint, &c.

Our judge maintains that the words "*The Judge*" can only mean such judge as the interpretation clause points out, and that the 17th

and subsequent sub-sections of the 3rd section prove this position.

Will you, Messrs. Editors, favour us with your views on this question, or invite the correspondents of the *U. C. Law Journal* to discuss it, because it is said that the whole "*Bar*" of the city of Hamilton are unanimous in an opinion adverse to that entertained by the judge and bar here.

Oblige,

Yours respectfully,

A SUBSCRIBER.

20th February, 1867.

[We have not at present time to devote to the consideration of the subject above referred to, but we should be glad in the mean time to hear from those who may have had occasion to investigate the point, which is, we believe, a new one and of great importance.]—Eds. L. J.

*Division Courts—Abandoning excess of Plaintiff's claim over \$100—Remitting portion of Defendant's set-off exceeding \$100.*

TO THE EDITORS OF THE LOCAL COURTS' GAZETTE.

GENTLEMEN,—An unusual case has arisen in the 5th Division Court of this County. A plaintiff had a cause of action against a defendant for ..... \$188 58  
He allowed the defendant credits for payments on account..... 33 55  
And shewed a balance against the defendant of..... \$105 03  
He abandoned the excess of..... 5 03  
And claimed the balance of..... \$100 00  
The defendant put in a set-off of... \$199 00  
Less excess remitted ..... 99 00  
And claimed the balance of... .. \$100 00  
The defendant proved that his claim was just to the extent of ..... \$190 00  
Besides what the plaintiff had credited in the statement of his claim. 33 55  
Shewing that the defendant had a just claim for..... 233 55  
Out of which should be deducted the plaintiff's account as above..... 138 58  
The true balance then due by the plaintiff to the defendant would be \$84 97

Now if the excess abandoned were to be taken into account, the statement would stand thus:—