and her deceased husband, the primary creditor abandoning the excess over $200. Another action was brought in the same Division Court at the same time, by the same primary creditor against the same primary debtor and the same garnishees, upon a promissory note for more than $200, the primary creditor again abandoning the excess. Both notes were overdue at the time the actions were brought.

The Ancient Order of United Workmen, and Mr. D. Carder, their Grand Recorder, were made garnishees before judgment, it being sought to attach in their hands the moneys due to the primary debtor under a beneficiary certificate upon the life of her deceased husband.

The primary debtor resided in Portland, Oregon, at the time the action was brought, and the promissory notes sued on were signed by her in one division of the city of Toronto, and made payable in the other.

The actions were brought in the Third Division Court because the primary creditor alleged that the garnishees carried on business there within the meaning of s. 185 of the Division Courts Act, R.S.O., c. 51, and the County Court judge, in his judgment affirming the jurisdiction, so held.

The primary debtor being resident in a foreign country, no Division Court, as was admitted, would have had jurisdiction before the Act, 57 Vict., c. 23, s. 12, which was as follows: "When it is by the Division Courts Act provided that a claim may be entered, or an action brought, or that any person or persons may be sued in any Division Court, such action may be brought, notwithstanding that the residence of the defendant is, at the time of bringing the action, out of the Province of Ontario, and such action may be brought in the Division Court in which the cause of action arose," (*sic*) "and continued to completion in as full and effectual a manner as might have been the case if the defendant resided in the Province."

The primary debtor sought to prohibit further proceedings in the two actions, upon the following grounds: (1) That a Division Court had no jurisdiction over her, she residing in a foreign country; (2) that even if she was amenable to the jurisdiction of a Division Court this action was brought in the wrong court, and there was no court which would have jurisdiction, as the cause of action did not arise wholly within any one division; (3) that by bringing two separate actions the primary creditor had divided a cause of action, contrary to s. 77 of the Division Courts Act, R.S.O., c. 51.

Swabey for the primary debtor.

Kilmer for the primary creditor.

Totten, Q.C., for the garnishees.

STREET, J., as to the third ground urged, it is plain that in an action at law the two promissory notes would have been declared upon in two separate counts; and, therefore, applying the cases of *Re Clark* v. *Barber*, 26 O.R. 47, and *Re Ball* v. *Bell*, *ib.*, 123, there was no dividing of a single cause of action.

As to the other grounds of the motion, it seems to me that s. 12 of 57 Vict., c. 23, gives jurisdiction in a case where the defendant resides out of the Province only to the Division Court of the division in which the cause of action arose. To construe that section as it was construed by the learned judge in the Division Court, and as it is now contended by the primary creditor it