Gildersleeve, for the defendant, admitted the irregularity, and applied for leave to amend.

McLEAN, J.—I think this is a proper case for amendment.

Order granted accordingly, on payment of costs and *terms*.

HOUGHTON v. GREAT WESTERN RAILWAY COMPANY.

Practice—Residence of plaintiff—C. L. P. Act, 1856. sec. 25.

Plaintiff must state the place of his abode, if required, when there is good ground for believing that he does not reside within the jurisdiction of the Court within which the action is brought.

(March 1, 1857.)

M. C. Cameron applied for a stay of proceedings in this cause, until the plaintiff or his attorney should give to the defendant a memorandum stating the place of his abode, on affidavit by the partner of the defendant's attorney to the following effect:—

1. That he was informed by the plaintiff's attorneys, that this action is brought in consequence of the plaintiff having been removed from the defendant's train on an occasion when he had a *through ticket* from the Suspension Bridge to Windsor.

2. That appearance had been duly entered.

3. That he had applied to the plaintiff's attorney for the particulars of his (the plaintiff's) residence, and that he was informed that he (plaintiff's attorney) does not know his residence positively, but thinks it is at Windsor.

4. That he has good ground to believe, and does believe, that the plaintiff does not live at Windsor, but in the United States of America.

The name of *Miles O'Reilly, Esq.*, was endorsed on writ of Summons, as attorney for the plaintiff. No cause was shown.

McLEAN, J.—I think these grounds are sufficient: take an order.

LANDON v. STUBBS.

Practice—Appointment to tax costs.

One half-hour's grace is always allowed for both parties to appear, under an appointment to tax costs.

(March 2, 1857.)

Carrall applied to set aside with costs the taxation of a nominal bill in this cause, on the ground that the said bill was taxed by the opposite party before the expiration of one half hour after the time appointed by the Master to tax the costs in this cause.

Blevins, contra. I conceive there is a difference between an *appointment* to tax costs and a *notice* of taxation: in the former case it is necessary that the parties appear before the Master punctually at the hour named; in the latter case the space of half an hour is generally allowed after the return of the notice of taxation—moreover, it was *Mr. Carrall's* appointment, and consequently it was his duty to be there punctually at the hour named, though half an hour's grace be allowed to the opposite party to appear, and to wait for him if necessary.

McLEAN, J.—I can see no difference whatever between an *appointment* to tax and a *notice of taxation*; one half hour's grace is, by the Practice, always allowed, in both cases, for the appearance of either party.

Order granted to set aside taxation of nominal bill with costs.

GROVER v. PETTIGREW.

Practice—Irregularity—Demand of particulars—Remittitur damna.

Service of demand of particulars still operates as a stay of proceedings, under C. L. P. Act, 1856.

(March 3, 1857.)

The defendant took out a summons on the 19th Feb., 1857, to set aside a final judgment signed for want of a plea, with costs, for irregularity, on the grounds:—

1st. That the judgment was signed after the service of a demand of particulars of the plaintiff's claim under the common counts of his declaration, and before the said particulars were delivered.

2nd. That the judgment was signed on only the two special counts of the declaration, no *remittitur damna* or *nolle prosequi* having been entered as to the common counts—or to set aside the judgment without costs on the *merits*.

Defendant put in among other papers an affidavit of his attorney, stating:—

1st. That an appearance was duly entered 8th Jan., 1857.

2nd. That the declaration contained, in addition to two special counts on two promissory notes, particulars of which were endorsed on the writ of summons, four common counts for *goods bargained and sold*, for *use and occupation*, for *interest*, and on *an account stated*, no particulars of which were endorsed on the writ, or served with the declaration.

3. That he caused a demand of particulars of the plaintiff's claim under these common counts to be served on the plaintiff's attorney on the 24th January, 1857.

4. That he had never, nor had any one for him, received any particulars under said common counts; nor had he ever received any intimation that the plaintiff did not claim anything under those counts, nor did he hear anything further from the plaintiff's attorney in this suit until he was informed by the deputy sheriff that he had an execution against the defendant.

5. That the defendant has a good defence to this action on the merits.

Carrall, for plaintiff, put in an affidavit stating that the action was brought by the plaintiff as payee against the defendant, as maker of two promissory notes; that the declaration was served on the 17th, and judgment signed on the 26th of January, 1857, for want of a plea; and that the writ of summons was specially endorsed with particulars of the said promissory notes, as required by 41st sec. C. L. P. Act, 1856; and contended:

1. That there was no provision or authority in C. L. P. Act, 1856, for the service of a *demand of particulars*, and hence it could not operate as a stay of proceedings, but is a mere nullity; the defendant should have applied to a Judge in Chambers for an order for better particulars.

2. That the plaintiff has no claim whatever under the common counts, and therefore he would apply for leave to amend his judgment, by entering a *remittitur damna* as to these counts.

3. That if his lordship should not consider him entitled to leave to amend on account of the defendant's affidavit of merits, then he submitted that as this irregularity would be amendable were it not for the defendant's affidavit of merits,