

estate or interest in any parish for any longer or further time than such person should inhabit within ten miles thereof. Lord Denman, in that case, says, "Some statutes furnish one mode of measurement, some another. In *Leigh v. Hind* (9 B. & C. 774), one learned judge, my brother Parke, thought that the natural mode of estimating the distance was as the crow flies; but there, with reference probably to the object of the contract, the measurement by the nearest accessible route was adopted. Here we are left very much at large, and without materials for judgment. We find no words referring to any particular object. We have therefore to lay down a fixed and absolute rule. Now, abstractedly, the most reasonable rule appears to be that approved of by my brother Parke, namely, a measurement by a direct line. By this we shall avoid the practical difficulty of a settlement being good one day and bad the next. It would be most inconvenient that one spot should one day confer a settlement, and another day not." Maule, J.—"Some houses would be about the border. In all the cases where a man lives about that distance, you will have, if the distance be measured by road, to send a surveyor to see if there has been a shortening or lengthening of the roads." And Maule, J., in giving judgment, observed, "I think the true construction as to the twenty miles is like that put upon similar words by Parke, B., in the case (*Leigh v. Hind*) in the Queen's Bench, that the words have not two senses, but one, subject to this, that if that sense led to a clear contradiction or inconvenience, then they would not be interpreted in that sense, because that would have been visible to those who used them; but that is not so here, because the convenience is greater in using them in their ordinary sense than in any other. I think that that judge's opinion was expressed with his usual accuracy, when he said that he should have thought that the proper mode of measuring the distance would be to take a straight line from house to house, in common parlance, as the crow flies.

In a straight line, is the natural and obvious meaning of these words. Under the same statute it has been also held, that when there are several defendants, all of them must dwell within twenty miles of the plaintiff to oust the Superior Courts of their concurrent jurisdiction: *Doyle v. Lawrence*, 2 L. M. & P. 368; *Parry v. Davis*, 19 L. J. Ex. 284.

MAGISTRATES, MUNICIPAL & COMMON SCHOOL LAW.

NOTES OF NEW DECISIONS AND LEADING CASES.

HIGHWAY—PROSECUTION FOR OBSTRUCTION—Costs—25 & 26 Vic. ch. 61, sec. 20.—A person who had encroached on and obstructed a public highway in the township of W., was indicted for so doing by the highway board of the district wherein W. was situated, and convicted upon the indictment. In addition to the taxed costs, the expense of the prosecution was £60, which the highway board required the township of W. to pay.

Held, that they were liable to the payment of that sum, it being an "expense in relation to a highway" within the township, within the meaning of 25 & 26 Vic. ch. 61, sec. 20. (*Heath v. Highway Board of West Eddisbury*, 13 W. R. 805.)

LOCAL TURNPIKE ACT — TOLLS — LIABILITY TO TOLL ON RE-PASSING GATE ON SAME DAY—By a local Turnpike Act a certain toll was imposed on every horse drawing any coach, stage-coach, van, caravan, or other such like carriage; and a lower toll was imposed on every horse drawing any waggon, wain, or cart, or other such like carriage. Horses were exempted from toll on re-passing a gate in the same day, if it had been once paid, with the exception that tolls were payable for horses drawing any stage-coach, diligence, van, caravan, or stage-waggon, or other stage-carriage, conveying passengers or goods for hire, on each time of passing or re-passing along the roads.

The appellant was a common carrier, and on certain days he conveyed goods, and occasionally passengers, for hire, in a caravan or waggon, from Cirencester to Cheltenham and back. He was not licensed under the Stage-carriage Act, but paid duties under the assessed Duties Act for a carriage used by a common carrier principally for conveying goods and occasionally passengers. He was charged both on his way to and from Cheltenham on the same day toll at the lower rate, which was admitted to be the proper one; his vehicle, on each occasion, conveyed goods and one passenger.

Held, that he was liable to toll on each time of passing or re-passing along the roads. (*Comley v. Carpenter*, 13 W. R. 812.)

POOR—RATABILITY — MILL RATED AS WAREHOUSE.—A mill not worked by the proprietor, and which he does not intend to resume the