it may be taken as the general opinion of all the judges. The application for this purpose may be made before or after issue joined, as may be most convenient to the parties in the proper conduct of the case. If the application be made before issue joined, it is requisite that the party applying should state in his affidavit all the circumstances on which he means to rely. He will not be allowed to add to or amend his case when cause is shown. It will be sufficient, however, for him to rely only on the fact that the whole cause of action arose in the county to which he desires to change the venue; but if he does so, he may be answered by any affidavits negativing this fact, or showing that the cause may be more conveniently tried in the county where the venue is laid. If made after issue joined, the affidavits in support of the application must show that the issues joined may be more conveniently tried in the county to which the party applying proposes to change the venue. Of course these affidavits are open to answer by the other party. In all these cases the Court or judge will decide, after hearing both sides, whether the venue is to remain, or will be changed as prayed, or be laid in some third county, according to its discretion."

His Lordship then read a rule which had been drawn up by certain of the judges to whom the matter was referred by the rest, which, although not promulgated as a rule of the Courts, was, as his Lordship said, one on which all the judges were disposed to act. The language of this rule was as follows, it being understood to apply only to the class of actions, in which, according to the old practice, the venue could be changed in the manner already explained:—

"The committee of judges to whom the question was referred as to the practice to be adopted, in consequence of Rule No. 18 in the Rules of Practice of Hilary Term, 1853, have to report:—

"First, that in their opinion it is more convenient, as a general rule, that the application to change the venue by rule or summons may be made before issue joined, provided that this shall not prejudice either party from applying after issue is joined to lay the venue in another county, if it shall appear that it may be more conveniently tried in such county.

"Secondly, that a defendant, on his affidavit to obtain the rule *nisi* to change the venue, or in support of a summons for that purpose before issue joined, should state all the circumstances on which he means to rely as the ground for the change of venue; but that he may, if he pleases, rely only on the fact that the cause of action arose only in the county to which he seeks to have the venue changed, which ground shall be deemed sufficient, unless the plaintiff shows that the cause may be more conveniently tried in the county in which it was originally laid, or other good reason why the venue should not be changed. To these resolutions the signatures of Baron Parke and Mr. Justice Wightman were attached."

The practice as explained by the Chief Baron in the above case was endorsed by the Court of Common Pleas in *Begg* v. *Forbes and others* (23 Law J. Rep. (N.S.) C. P. 222), and the Court of Exchequer in *Smith* v. *O'Brien* and *Julland* v. *Riches* (26 Law J. Rep. (N.S.) Exch. 30, 31, repeated and confirmed what it had said in *De Rothschild* v. *Shilston*. The last cases cited were decided in 1856, about which time there seems to have arisen a mutiny on the bench, for we find two years later in a case of *Helliwell* v. *Hobson and another* (3 C. B. (N.S.) 761), Mr. Justice Crowder laying down the rule that the plaintiff has the right to lay his venue where he chooses, and ought not to be deprived of that right unless there is a manifest preponderance of convenience in a trial at the place preferred by the defendant.

In January, 1860, in *Durie* v. *Hopwood*, 7 C. B. (N.S.) 835, Chief Justice Erle said:—"It is important that a cause should be tried where the cause of action arose; and I think it is advisable to act upon that principle so far as the interests of justice can be made to coincide with that course." In the same year, 1860, in *Jackson* v. *Kidd*, 29 Law J. Rep. (N.S.) C. P. 221, Mr. Justice Willes boldly says:—"Some judges do not consider themselves bound by the resolutions read in *De Rothschild* v. *Shilston*."

So much for the history of changing the venue since the year 1853, which terminates with the case just reported of *Church* v. *Barnett and another*, with regard to which, it is, for the present purpose, unnecessary to do more than quote a portion of the judgment of Mr. Justice Willes, who thus gives the deathblow to the alleged resolution of the judges as stated in *De Rothschild* v. *Shilston*, and who also defines what is unquestionably the existing rule of practice. His Lordship said:—

"With respect to the so-called resolution of the judges in *De Rothschild* v. *Shilston*, certainly it is not a rule in so far as it suggests that it is sufficient for the defendant, on an application to change the venue, to state in his affidavit as a ground for the change that the cause of action arose in some other county than that in which the venue is laid. After that case of *De Rothschild* v. *Shilston*, defendants in practically undefended actions attempted, but unsuccessfully, for the mere purpose of delay, to obtain an order to change the venue from London, where it had been laid, to some place in the country, on an affidavit that the cause of action arose there. That part of the so-called resolution was never adopted, and was not properly a resolution of the judges at all. If it had been adopted, it would have been made a rule of Court. There is, however, no such rule, and the plaintiff has a right generally to lay his