

North-West Territories.

SUPREME COURT.

Scott J.] STIBSON v. ROSS. [Nov. 21, 1903.
Security for costs—Agent—Affidavit of advocate insufficient.—Rule 520.

Held, on an application for security for costs under Rule 520 which provides for obtaining a summons to shew cause when "the defendant by affidavit of himself or his agent alleges that he has a good defence on the merits to the action." That the agent must be some one having personal knowledge of the facts. That the allegation of the existence of a good defence must be positive. That an affidavit by the defendant's advocate that he verily believes the defendant to have a good defence to the action on the merits is insufficient.

C.F. Newell, for plaintiffs. *O.M. Biggar*, for defendants.

Scott J.] SASKATCHEWAN LAND CO. v. LEADLEY. [Nov. 23, 1903.
Action commenced in wrong subjudicial district—Transfer—Chamber summons—Irregularities—Rules 538 540.

Where an action was entered in the office of the Deputy Clerk of the Northern Alberta Judicial District at Edmonton but the cause of action did not arise nor do any of the defendants reside in his subdistrict, some of the defendants residing in the remaining portion of the district under the jurisdiction of the Clerk at Calgary, in which also the lands in question are situate, and others residing in the Province of Ontario.

Held, on an application to set aside the writ of summons, injunction order and other proceedings, that although the entry of the action with the Deputy Clerk at Edmonton was unauthorised under s. 4. sub-s. 2. of the Judicature Ordinance (C. O. 1898 C. 21) it is not a nullity, but merely an irregularity and the defect might be cured under Rule 538 by transferring the cause to the office of the Clerk at Calgary.

Held, also, against the contention of the plaintiff, that an irregularity in the summons to set aside the proceedings, in not stating the objections relied upon, pursuant to the Rule 540 is not sufficient to discharge the same but will entitle the opposite party to an enlargement to answer the objections.

Beck, K. C. for plaintiff. *G. W. Greene* and *O. M. Biggar*, for defendants.