

IN THE COUNTY COURT OF KOOTENAY.

HENDRX vs. HENNESSEY.

AUGUST 21, 1893]

[WALKEM, J.

County Courts—Jurisdiction of Supreme Court Judges in—Limitations of—C. C. Act, 1888, Sec. 15.

The action was pending in the County Court of Kootenay. Defendant moved to set aside a *lis pendens* filed by plaintiff against certain Mineral Claims, the title to which was brought in question in the action, on the ground that the plaintiff had no claim and that the proceedings and *lis pendens* were vexatious and without colour of right. There was no affidavit that the office of C. C. Judge of Kootenay was vacant.

Robert Cassidy, for defendant, showed cause. He objected to the jurisdiction to hear the motion, on the ground that the pre-requisite of the vacancy of the office of C. C. Judge of the domicile was not proved; and also, that, apart from that, the jurisdiction conferred on the Supreme Court judges by the act was vicarious and co-terminus with that of the C. C. judge of the District, and consequently could not be exercised outside the territorial limits of the County Court in question.

Lindley Crease, contra, contended that by section 10 of Supreme Court Act, the Supreme Court and its judges had cognizance of all pleas whatsoever.

Cassidy in reply: That is admitted when the action is brought in the Supreme Court, when the only question is one of costs.