Held, also, that the "special circumstances" which, by s. 34 of R. S.O., c. 147, must exist to justify a reference to taxation after twelve months from delivery of the bills are not confined to cases of actual fraud or gross overcharge and pressure.

Re Norman, 16 Q.B.D., 673, followed.

Held, also, that bringing three separate actions which might all have been joined in one, and charging excessive counsel fees, were special circumstances to be regarded in ordering a taxation after twelve months.

J. B. O'Brian for the applicants.

Masten for the solicitor.

FERGUSON, J.] [Feb. 4.

STEWART *v.* WHITNEY.

Money in Court—Payment out to administrator—Infants.

Money in court belonging, at the time of her death, to an intestate, was paid out to her administrator, notwithstanding that infants might be, or might become entitled to it or a share of it.

Semble, if the money belonged specifically to infants, the disposition might be otherwise.

Stephen M. Jarvis for the administrator.

J. Hoskin, Q.C., for the infants.

BOYD, C.] [Feb. 10.

GAGE *v.* DOUGLAS.

Assignments and preferences—R.S.O., c. 124, s. 7—Action by creditors to set aside fraudulent transaction—Right to continue after assignment for benefit of creditors—Order continuing action for benefit of particular creditors.

An action begun by creditors of an insolvent to set aside a transaction in fraud of creditors, before an assignment by the insolvent for the benefit of creditors under R.S.O., c. 124, can be prosecuted by the creditors after an assignment has been made; for the assignment has not the effect under s. 7, s-s. 1, of transferring the existing cause of action to the assignee.

S. 7, s-s. 2, may be read so as to apply to pending litigation instituted by the assignee or into which he has been introduced; and an order was made under that enactment in an action begun by creditors before an assignment, in which the assignee was after the assignment added as a co-plaintiff, authorizing the original plaintiffs and other creditors to continue the action as constituted for their own benefit upon indemnity to the assignee.

W. Creelman for the plaintiffs.

E. B. Brown for the defendants.

MANITOBA.

COURT OF QUEEN'S BENCH.

BAIN, J.] [Jan. 31.

BANK OF MONTREAL *v.* POYNER.

Jurisdiction of County Judge—Defendant resident in another county—Acquiescence in jurisdiction—Prohibition.

Action on promissory note made by defendant at his residence in the county of Brandon. Action was brought in County Court of Selkirk. No evidence was given that any order had been made by a Judge, under section 48 of the County Court Act, authorizing the action to be brought in the County Court of Selkirk. Defendant filed a dispute note objecting to the jurisdiction of the court; at the time the action was commenced he did not reside or carry on business in the county of Selkirk. Defendant applied for writ of prohibition.

Held, that defendant was entitled to a writ of prohibition with costs.

Objection: that defendant had submitted to the jurisdiction overruled. Where a defendant takes express objection to the jurisdiction, and follows up his objection without delay by applying for prohibition, he cannot be said to have acquiesced in, or submitted to, the jurisdiction.

F. H. Phippen for plaintiff.

W. R. Mulock, Q.C., for defendant.

TAYLOR, C.J.
DUBUC, J.
BAIN, J. } [Feb. 2.

THE QUEEN *v.* STARKEY.

Conviction under Liquor License Act—Rule to quash discharged—Costs awarded to Justices.

Defendant was convicted for selling liquor illegally, under Liquor License Act, 1889, and after proceeding by certiorari, he took out a rule calling upon the Justices to show cause why the conviction should not be quashed. The rule was discharged, on the ground that