cussed and dealt with at the trial, a motion for prohibition cannot be made.

This is the effect of the judgments in Re Watson v. Woolverton (1889), 22 O.R. 586 (note), and In re Hill v. Hicks and Thompson (1897), 28 O.R. 390.

It is manifestly most inconvenient that a motion of this type, where the expense is entirely disproportionate to the amount involved, should be launched, where the Division Court will, without expense, set the matter right. The proceedings in the Division Court are not entirely without jurisdiction, as the Judge has power to transfer the case to the proper Court.

Objection is also taken to the form of the summons. It is possibly not entirely accurate; but the defendant has waived this by entering his dispute. Besides, prohibition will not lie for a mere irregularity in the proceedings in the Division Court; and nothing more than an irregularity exists here.

The motion is dismissed with costs.

MIDDLETON, J. JANUARY 27TH, 1914.

COWLEY v. SIMPSON.

Limitation of Actions—Possession of Land—Evidence—Preference Given to Affirmative Evidence—Agreement—Acknowledgment—Corroboration.

Appeal by the defendant from the report of GUNN, Jun. Co. C.J., Carleton, to whom this action was referred for trial. The action was for the recovery of possession of land.

J. E. Thompson, for the defendant.
W. J. Code, for the plaintiff.

MIDDLETON, J.:—Since the argument, the cross-examination of the witness Desormier upon his affidavit has been put in. The affidavit and cross-examination of this witness so completely answer the evidence now sought to be adduced that a new trial upon this ground is out of the question. This is a typical instance of the class of case in which the well-known rule as to the preference to be given to affirmative evidence can safely be applied.

The witnesses who so clearly remember the residence of