

WINCHESTER, Master.]

[Mar. 13.

SAMPLE *v.* McLAUGHLIN.

Security for costs—Proceedings to stay action—Solicitor—Retainer.

Where persons residing out of the jurisdiction instituted proceedings to have an action in which they were plaintiffs stayed, or to have their names struck out as plaintiffs, on the ground that the solicitor had no instructions from them to bring such action,

Held, that the solicitor was not entitled to security for costs in such proceedings, although the applicants resided out of the jurisdiction and were not possessed of property within the jurisdiction.

Cochrane v. Fearon, 18 Jurist 558; *Re Percy*, 2 Ch. D. 531; *Watteen v. Billam*, 3 DeG. & Sm., 516; *Palmer v. Lovett*, 14 P.R. 415, referred to.

W. M. Douglas, for the solicitor.

D. Armour, for the applicants.

DIVISION COURTS.

FIRST DIVISION COURT, COUNTY OF PRINCE EDWARD.

WILSON *v.* DAYTON.

Division courts—Jurisdiction—Title to land—R.S.O. c. 51, sec. 69, s-s. 4.

In an action for rent of land the defendant alleged that there was an actual sale to him by the plaintiff (although no conveyance was made) and that he went into possession and made improvements thereunder. Although the defendant claimed only for damages for breach of contract of sale, not apparently insisting on any further claim of ownership, it was held that the title to land came in question within the meaning of the Division Courts Act, sec. 69, sub-sec. 4, and that therefore a Division Court had no jurisdiction.

[Pictou, February 10, 1896—MERRILL, Co. J.]

This was a claim for rent of land. The defendant disputed the claim, and also counter-claimed for damages for breach of contract of sale of the land in question.

E. M. Young, for plaintiff.

J. A. Wright, for defendant.

MERRILL, Co. J.—It is first necessary to dispose of the question of jurisdiction. For although no notice under sec. 176 of the Division Courts Act, disputing the jurisdiction has been given, that has been held to be required only where some Division Court would have jurisdiction. See *Mead v. Creary*, 8 P.R. 374, 32 C.P. 1; *Re Knight v. Medora & Wood*, 14 A.R. 112; and *Re Graham v. Tomlinson*, 12 P.R. 367.