defendant was a resident of the county. In case the plaintiff was a non-resident of the county,

Held, that 49 Vict., c. 81, s. 3 (N.B.) was not open to that construction. The process of the magistrate cannot be served outside the limits of the county. In case the plaintiff is a non-resident, so long as the defendant is served with process within the magistrate's territorial jurisdiction, it matters not where his residence may be. The magistrate acquires jurisdiction.

Judgment of magistrate affirmed with costs to plaintiff.

D. Jordan, Q.C., for plaintiff.
C. E. Duffy, for defendant.

Province of Manitoba.

QUEEN'S BENCH.

Full Court.] [Dec. 23, 1896.

REGINA *v.* DOUGLAS.

Criminal law—Evidence—Deposition of prisoner taken in a former civil proceeding, admissibility of—Identity.

This was a case reserved for the decision of the Full Court on the following questions :—

(1) Whether the depositions of the prisoner taken compulsorily in a civil proceeding before a Court in the province of Quebec were admissible in evidence on the trial of the prisoner in Manitoba on a criminal charge.

(2) Whether the evidence was sufficient to identify the prisoner as being the party whose depositions had been taken.

An official stenographer from the province of Quebec was present at the trial, and gave evidence as to the taking of the depositions of John S. Douglas, and that he believed that the prisoner was the same man, but could not speak positively as to his identity.

Held, (1) That s. 5 of the Canada Evidence Act, 1893, has no application in such a case, and that the depositions in question were admissible in evidence ; *Reg.* v. *Coote*, L.R. 4 P.C. 599.

(2) That the judge was warranted in submitting the evidence of identity to the jury, and it was for them to decide whether they were satisfied on that point.

Conviction quashed.

MacLean, for the Crown.

Howell, Q.C., and *Metcalfe*, for the prisoner.

[See *Reg.* v. *Chisholm*, 32 C.L.J. 591, and *The Queen* v. *Erdheim*, Ib. 668.—ED. C.L.J.]