

Secord v. Trumm, 20 O.R. 174, followed.

Nor can he confer jurisdiction upon himself by subsequently directing an amendment of the affidavits and papers filed by substituting the High Court for the County Court.

An appeal from an order so amending was allowed, but without costs, because the objection should have been taken in time.

L. G. McCarthy for the plaintiff.

J. M. Clark for the defendant.

NOVA SCOTIA.

SAVARY, J.]

[Co. Court.

BALCOM v. PHINNEY.

Promissory note—Endorsement by person other than payee—Liability to payee.

J.L.P. made a note in favour of J.A.B., and before delivering it to the latter procured E.P. to endorse it. J.A.B. sued E.P. as an endorser, and in the alternative as a guarantor. Amendment having been applied for, the trial judge allowed all amendments necessary to state the facts as proved to be considered as made.

Held, that the defendant was liable as an endorser.

MANITOBA.

COURT OF QUEEN'S BENCH.

DUBUC, J.]

[Nov. 29, 1893.

SIMPSON v. STEWART.

Ejectment—Proof of will—Ancillary letters probate—Identification of testator and executors—Proof of Crown patent—Tax deed—Necessary evidence to support.

Ejectment brought by executors and trustees of estate of Alexander Smith in his lifetime of Glasgow, Scotland.

Defendant asserted title under tax deed.

Ewart, Q.C., and *Perdue* for the plaintiffs, adduced the following evidence:

(1) Ancillary letters probate of the trust disposition and settlement and two codicils, of the deceased, issued out of the Surrogate Court of the Eastern Judicial District of Manitoba, where the lands are situate.

(2) Exemplification of letters patent from the Crown for said lands in favour of deceased.

(3) Depositions of Agnes S. Bell and Robert Bell taken under commission at Ottawa, in Ontario, with an affidavit of plaintiff's attorney that these witnesses were without the province.