

*Held*, the rule is, that when the want of jurisdiction arises, not from the nature of the suit, but because the defendant is not resident within the jurisdiction, then, if the defendant appear for the purpose of entering into the merits of the suit, he cannot afterwards apply for prohibition; but if he take express objection to the jurisdiction, and promptly apply for prohibition, he cannot be said to have submitted to the jurisdiction. *Bank of Montreal v. Poyner*, 270.

2. *County Court—Unsettled account—Attachment.*—Section 45 of the County Courts Act, 1887 provides that "No greater sum than \$250 shall be recovered in any action for the balance of an unsettled account, nor shall any action for such balance be sustained where the unsettled account, forming the subject matter to be investigated, in the whole exceeds \$400."

Sub-section (1) of above section provides that "a claim in contract for any amount may be sued or pleaded as a set off in the County Court, provided the excess over \$250 is abandoned \* \* \* Provided that in no case shall a greater amount than \$250 be recovered in the County Court."

*Held*, (KILLAM, J., dissenting). That where the balance of an unsettled account of over \$400 exceeds \$250, the plaintiff may abandon the excess and sue in the County Court for and recover \$250.

*Per* KILLAM, J. The section and sub-section are inconsistent and the rule, that the Court being an inferior court and having only the jurisdiction conferred by statute this jurisdiction must not be presumed where it is not distinctly given, should be applied; and the

clause, limiting the jurisdiction in cases of unsettled accounts to those accounts which originally did not exceed \$400, must prevail.

*Held also*, Sections 40 to 45 inclusive of the County Courts Act, 1887, fix the limits of the jurisdiction of the Court, and in that respect control the sections relating to attachment. *Dougall v. Leggo*, 445.

*See* JUDGMENT. — COSTS AND SECURITY FOR COSTS, 5.

#### PROMISSORY NOTE.

*Presentment for payment—Where payable—No special place mentioned.*—Certain promissory notes were made payable at the Imperial Bank of Canada, without stating any special place. The notes were dated at Brandon. The head office of the Imperial Bank was at Toronto, but it had a branch office at Brandon and the notes were presented at that office for payment.

*Held*, a sufficient presentment. *The Commercial Bank of Manitoba v. Bissett*, 586.

#### PUBLIC SCHOOLS ACT.

*See* CONSTITUTIONAL LAW, 1.

#### QUIT CLAIM DEED.

A quit claim deed is within the Registry Act, and by registration defeats a prior unregistered grant of the same grantor. *Stark v. Stephenson*, 381.

#### RAILWAYS AND RAILWAY COMPANIES.

1. *Railway company—Ratification of contract—Bonds—Power to mortgage or pledge—Raising money*