

in a County Court, within the jurisdiction of which he did not reside and the cause of action did not arise. The defendant did not file a dispute note, but notified the plaintiff that he disputed the jurisdiction of the Court, and intended to apply for prohibition if the action were persisted in. Notwithstanding this notice, the plaintiff proceeded to judgment. The defendant then applied for prohibition.

Held, that the defendant was entitled to the prohibition without costs, although he did not show a meritorious defence.

Held, also, that when there is nothing on the face of the proceedings to show want of jurisdiction, and the objection arises only upon shewing the residence of a party and the local origin of the cause of action, and the facts are not brought forward until after judgment, the granting of prohibition is in the discretion of the Court.

Robertson v. Cornwell, 7 P. R. 297, followed. *Rutherford v. Walls* 96

2. *County Court—Jurisdiction of—Acquiescence in jurisdiction—Waiver—Assets in Manitoba of value of \$200—Allowing service out of jurisdiction.*—G. issued a writ in the County Court of Selkirk against C. for breach of contract. C. lived in Ontario, and the cause of action arose there. G. obtained an order from the County Court Judge allowing service on C. out of the jurisdiction, on an affidavit that C. had assets in Manitoba to the value of \$200 at least. C. then applied to have the writ and service set aside for want of jurisdiction, but the application was dismissed.

Counsel for C. attended at the trial and again objected to the jurisdiction, but cross-examined plaintiff's witness. A verdict was entered for the plaintiff. Afterwards counsel for defendant obtained a summons from the County Court Judge to set aside the verdict, on the grounds of surprise and want of good faith. On this application no reference was made to the question of jurisdiction. While this motion was pending defendant applied to this Court for prohibition.

Held, that the defendant, having taken exception to the jurisdiction, had not lost his right to prohibition merely because he allowed the case to be tried and judgment signed, especially as on the trial he still took exception to the jurisdiction; but that, on the subsequent motion to set aside the judgment, there was such a complete acquiescence in the jurisdiction with full knowledge of the facts, that this Court should not interfere.

Held, also, that the provisions of section 32 of The Administration of Justice Act, 1886, (R. S. M., c. 1, s. 24) for allowing service of writs of summons out of Manitoba, do not apply to the County Courts. *Gibbins v. Chadwick* 209

3. *County Court—Jurisdiction of—Title to land—Effect of raising objection to jurisdiction in dispute note—Taxes—Assessment of homestead before patent—Liability of occupant—Assessment—Rates—Evidence—Owner or occupant.*—The plaintiff, a rural Municipality, sued the defendant in a County Court for the taxes on a half section of land for the years 1888, 1889, 1890 and 1891. The defendant