

BRITTON, J., IN CHAMBERS.

FEBRUARY 1ST, 1913.

RE MITCHELL v. DOYLE.

Division Courts—Territorial Jurisdiction—Notice Disputing Jurisdiction—Duty to Apply for Transfer of Plaintiff to another Court—Changes in Statute—Division Courts Act, 10 Edw. VII. ch. 32, secs. 72, 78, 79—Prohibition—Laches—Discretion—Affidavits—Merits—Costs.

Motion by the defendant for prohibition to prevent further proceedings in the 9th Division Court in the United Counties of Northumberland and Durham, and also in the 2nd Division Court in the County of Bruce.

G. H. Kilmer, for the defendant.

A. B. Colville, for the plaintiffs.

BRITTON, J.:—The facts are as follows. On the 2nd March, 1910, the plaintiffs left their claim for suit with the clerk of the 9th Division Court in the United Counties of Northumberland and Durham.

The claim was:—

	May, 1910.	
I yearling heifer	\$100	
By paid	60	
	\$40	
Interest for 21 mos. 5%	3.50	
	\$43.50	

On the same day, a summons issued, which was served, on the 14th March, upon the defendant, who then resided and now resides in the county of Bruce. On the 15th March, the defendant instructed his solicitor to file a dispute-notice, and on the 18th March the clerk of the said Court received the notice disputing the plaintiffs' claim and also disputing the jurisdiction. The defendant did not file any affidavit, nor did he apply to the County Court Judge to have the case transferred, nor did he attend the trial. At the trial, one of the plaintiffs gave evidence of the debt, but gave no particulars as to where the cause of action arose. The learned Judge, on the 14th May, 1912, gave judgment for the plaintiffs for \$35 debt and \$3.50 interest, and for costs.