

As said in *Brazill v. Jones*, 24 O. R., p. 209, a prohibition may be granted at the very latest stage, so long as there is anything to prohibit. From the very earliest times this has been recognized as the guiding principle. In the historic answers of the Judges to the *articuli cleri*, resulting in the statute 9 Edw. II., ch. 1 . . . found in 2 Inst. 602—it is said: “Prohibitions by law are to be granted at any time to restrain a Court to intermeddle with or execute anything which by law they ought not to hold plea of, and they are much mistaken that maintained the contrary . . . for their proceedings in such case are *coram non iudice*; and the King’s Courts that may award prohibitions, being informed either by the parties themselves or by any stranger that any, temporall or ecclesiastical, doth hold plea of that whereof they have not jurisdiction, may lawfully prohibit the same as well after judgment and execution as before.” A statement which is referred to with approval by Wiles, J., in *Mayor of London v. Cox*, L. R. 2 H. L. 239

I have the less hesitation in awarding prohibition where the magistrate proceeds with the hearing of the case having knowledge that his jurisdiction is disputed. It would be more seemly for all tribunals charged with the administration of justice to act in such a way as to avoid any suspicion that the course adopted is in any way the result of temper.

Here, the magistrate, knowing that his jurisdiction was disputed, and after having been served with a notice of motion for prohibition, dismissed the charge without having heard the informant’s evidence, and apparently sought to put the informant in the position of either attorning to his jurisdiction by appearing in obedience to his summons, or risking everything upon the result of the motion. It would have been more consistent with judicial dignity to have enlarged the hearing until the question of jurisdiction had been determined.

There is no power in the Court to stay proceedings in an inferior Court pending the hearing of the motion. *Myron v. McCabe*, 4 P. R. 171; and this should make all inferior tribunals reluctant to act in a way that will afford any foundation for the argument here presented, that the motion is rendered nugatory by what has been done after the motion was on foot.

The citation from Coke, also answers another objection made to this motion, that the informant has no *locus standi* to apply.