

well the worst that could happen to him, and I see no impropriety in making the orders complained of; if it were not for the practice in the other Court, due, as I venture to think, to historical and other considerations, wholly wanting in the case of the County Court, no one would have thought the language of the statute had any other meaning than that I am now suggesting.

At all events there is such "doubt in fact (and) law whether the inferior Court is exceeding its jurisdiction or is acting without jurisdiction" that we should exercise the discretion we have "to refuse a prohibition." Brett, J., in *Worthington v. Jeffries*, L. R. 10 C. P. 379, at pp. 383, 384, says: "If the Court doubt as to what is the true state of the facts as to the law applicable to recognised facts, it is indisputable that the Court may decline to proceed further."

See also *Foster v. Berridge*, 4 B. & S. 187, cited in the case in L. R. 10 C. P.; *Ex p. Smyth*, 3 A. & E. 719, per Littledale, J., at p. 724; *Martin v. Mackonochie*, 4 Q. B. D. 734, per Thesiger, L.J.; *Carlake v. Mapledoram*, 2 T. R. 473, per Buller, J.; *Bassano v. Bradley* (1896), 1 Q. B. 645, per Russell, L.C.J.; *Ricardo v. Maidenhead*, 2 H. & H. 257, per Pollock, C.B.; *In re Birch*, 15 C. B. 734, per Jervis, C.J.

This consideration also enters into the case upon the earlier branch.

I am of opinion that the appeal should be dismissed with costs.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—I agree in the result.