peared of record and the party was under the protection of the court where his suit was pending.

Harkness v. *Hyde*, 98 U. S. 476, was a case from Idaho territory, where objection was made to the service of process on the ground that it was served outside of the limits of the territory; but the question as to how the sufficiency of the service was to be questioned, whether by motion or by plea, was not made, but the only point considered was whether the marshal could serve the process outside the territorial limits, so that this case gives no aid upon the question at bar. And the same may be said of *Nazro* v. *Cragin*, 3 Dill. 474. While the general rule in this state undoubtedly is that a motion to dismiss for want of jurisdiction or quash the service of process will not be entertained unless the objection appears upon the face of the record.

In *Holloway* v. *Freeman*, 22 Ill. 197, it is said that a motion to dismiss for want of jurisdiction will not be entertained unless the objection taken appears upon the face of the papers; but that when the grounds of the objection do not so appear, but have to be shown by extrinsic proof, the question must be raised by plea in abatement. The same rule was applied in *McNab* v. *Bennett*, 66 Ill. 157, and in *Holton* v. *Daly*, 106 Ill. 131. It is true the rule that judgment must be rendered against a defendant who fails to sustain his issue of fact on a plea of abatement is a harsh one, but in most cases such a defense can be only a mere dilatory plea and should not be encouraged by the courts; and in cases like this, certainly, a defendant ought to know whether the person on whom process is served is or is not his agent, and should be held to make the issue on that point at his peril.

The motion to strike from the files the motion to quash is sustained.

UNITED STATES *v.* BARNHART and another.

(Circuit Court, D. Oregon. December 8, 1884.)

1. INDIAN COUNTRY—UMATILLA RESERVATION.
   The Umatilla Indian reservation is a place within the geographical limits and general jurisdiction of the state of Oregon, but is also a tract of country to which the Indian title is not extinguished, and which has been permanently set apart by treaty as a reservation for the sole and exclusive use of the Indians thereon, and is therefore "Indian country," within the meaning of that phrase as used in the Revised Statutes.

2. INTERCOURSE WITH INDIAN TRIBES.
   The United States has jurisdiction over the intercourse with tribal Indians, and congress may prohibit and provide for the punishment of acts relating to or affecting such intercourse anywhere in the United States.

3. JURISDICTION OF UNITED STATES COURTS OVER CRIMES COMMITTED ON THE RESERVATION.

The United States courts of the district of Oregon have jurisdiction over all crimes committed on the Umatilla reservation by a white man on the property or person of an Indian, and *vice versa*, so far as the same have been defined by an act of congress.

4. PLEA OF AUTREFOIS ACQUIT.

B. and A. were indicted in the United States court for the crime of manslaughter, committed in killing Indian William on the Umatilla reservation, and pleaded to the indictment a former acquittal, from which plea it appeared they had been indicted and tried in the state court for the murder of said Indian, and acquitted, to which plea there was a demurrer. *Held*, that the crime of which the defendants were acquitted in the state court was not the same as that charged in the indictment in the United States court, and therefore the plea was bad.

Indictment for Manslaughter.

James F. Watson, for the United States.

W. Lair Hill, for defendants.

DEADY, J. On November 21, 1884, the grand jury of the United States district court for this district, by an indictment then duly found, accused the defendants of the crime of manslaughter, committed as follows: On May 13, 1884, the defendants, being white men, did "feloniously and willfully" shoot, with a revolving pistol, one William, an Indian, then and there being on the Umatilla Indian reservation, in this district, and belonging thereto, whereof he then and there died. Afterwards the indictment was remitted to this court for trial. On November 24th the defendants demurred to the indictment, on the ground that the court had no jurisdiction of the offense; and on November 26th they withdrew their demurrers, and on being arraigned pleaded *autrefois acquit*, or a former acquittal of the same charge in the circuit court of the state for the county of Umatilla. From the pleas it appears that on June 16, 1884, the defendants were jointly indicted in said court for the crime of murder, committed in killing the said William on May 13, 1884, in said county of Umatilla, which includes said Indian reservation; and thereafter, to-wit, on July 2, 1884, were duly tried therein on said charge, on the plea thereto of not guilty, and acquitted. To these pleas the district attorney demurs, for that the facts stated therein "do not constitute a formal acquittal of the offense set forth in the indictment, and do not constitute a bar to the prosecution by the United States for said offense."

In *U. S.* v. *Bridleman*, 7 Sawy. 243, S. C. 7 FED. REP. 894, and in *U. S.* v. *Martin*, 8 Sawy. 473, S. C. 14 FED. REP. 817, it was held that the United States courts of this district have "jurisdiction of a crime committed on the Umatilla reservation by a white man upon the person or property of an Indian, and *vice versa*, provided the crime is defined by a law of the United States directly applicable to the Indian country, or made so by sections 2145 and 2146 of the Revised Statutes. The crime of manslaughter, when committed on the high seas or in any place within the exclusive jurisdiction of the United States, is defined by section 5341 of the Revised Statutes as the un-