

RIDDELL, J.:— . . . The law respecting wrongs committed in another country, remedy for which is sought in England, has been more than once authoritatively laid down. . . .

[Reference to *Phillips v. Eyre* (1870), L.R. 6 Q.B. 1, 28; *Carr v. Francis Times & Co.*, [1902] A.C. 176, 182; *Westlake's Private International Law*, 5th ed., ch. 40, p. 282; *Machado v. Fontes*, [1897] 2 Q.B. 231; *Varawa v. Howard Smith Limited*, [1910] Viet. L.R. 509; *The Halley* (1868), L.R. 2 P.C. 193, 202.]

There being no authority for the proposition, and it being opposed to both principle and authority, we cannot give effect to the contention, that only the common law of the Province can be looked at in determining whether a delict is "actionable."

It is contended that, at all events, the Workmen's Compensation for Injuries Act cannot be appealed to. This argument is based upon two cases: *Tomalin v. Pearson*, [1909] 2 K.B. 61 (C.A.); and *Schwartz v. India Rubber Co.*, [1912] 2 K.B. 299.

[Discussion of these cases and reference to *Chartered Bank of India v. Netherlands & Co.* (1883), 10 Q.B.D. 521, 537.]

We cannot give effect to the argument for the plaintiff that the Legislature of the Province of Ontario had intended to give their Act an extra-territorial effect: *British North America Act*, sec. 92(13); *McLeod v. Attorney-General*, [1891] A.C. 457; *In re Criminal Code*, 27 S.C.R. 461; *Attorney-General v. Cain*, [1906] A.C. 542.

Nor can we agree to the proposition of the plaintiff that the parties must be held to have contracted that the law of the country of their domicile should govern them in all respects. This is based upon a Quebec case, *Dupont v. Quebec Steamship Co.* (1896), Q.R. 11 S.C. 188. . . .

[Discussion of and dissent from the doctrine of that case. Reference to *The M. Moxham* (1876), 1 P.D. 107, 110, 111, 113; *Tomalin v. Pearson*, [1909] 2 K.B. 61, 65.]

The law is, that where an act or omission would be actionable had it taken place in Ontario, it is actionable in our Courts when it took place in a foreign country, if by the law of that country, whether common law or statute, it was not justifiable. That an employer is not justified or excused in Quebec if his servant by negligence does injury to a fellow-servant is quite clear—that is admitted. And, although the Quebec Act of 1909, 9 Edw. VII. ch. 66, enables an employee to receive compensation for an accident which is not the result of negligence, it does not at all