

Affairs, on July 30th, 1880, sold to P. certain lots of land, being part of the Indian Reserve at Sarnia, for \$1000, the sale being subject to the condition that P. would, within nine months from the date of sale, erect thereon buildings for manufacturing purposes. One-fifth of the purchase money was paid at the date of the sale; and in August, 1881, although the condition to erect buildings had not been performed, W., the Indian Agent at Sarnia, received the balance of the purchase money from P., stating to him, however, that the sale would not be complete until such condition was complied with.

*Held*, that the acts of officers of the Crown may constitute a waiver by the Crown, and that the receipt of the balance of the purchase money was, under the circumstances, a waiver of the time within which the condition was to be performed, but not of the substance of the condition.

*Quere*: Has the Court jurisdiction to declare that a suppliant is entitled to have letters patent issued to him? *Clarke v. The Queen* (per SIR WM. J. RITCHIE, C.J., in the Exchequer Court), unreported; *The Canada Central Railway Company v. The Queen*, 20 Grant 289, and *The Attorney-General of Victoria v. Eltershank*, L.R. 6 P.C. 354, referred to. Petition dismissed, without costs.

S. H. Blake, Q.C., and J. Adams, for suppliant.

Wallace Nesbitt, for Crown.

#### SUPREME COURT OF JUDICATURE FOR ONTARIO.

#### HIGH COURT OF JUSTICE FOR ONTARIO.

#### Queen's Bench Division.

Full C't.]

REGINA V. WASON.

[Feb. 4.]

*Constitutional law*—51 V., c. 32 (O.)—*Ultra vires*—B.N.A. Act, s. 91, par. 27—*Criminal law*.

*Held* [STREET, J., dissenting], that the Act of the Ontario Legislature, 51 V., c. 32, "An

Act to provide against frauds in the supplying of milk to cheese or butter manufactories," is *ultra vires*, as coming within the class of criminal law reserved exclusively to the Parliament of Canada by the B. N. A. Act, s. 91, par. 27.

*Per* ARMOUR, C.J., the primary object of this Act is to create new offences and to punish them by fine, and in default of payment by imprisonment, and this is its true nature and character.

*Per* STREET, J.—The punishments imposed by the statute are directed to the enforcement of a law of the Provincial Legislature relating to property and civil rights in the Province; the offences created by it formed no part of the criminal law previously existing, and the apparent object is to protect private rights rather than to punish public wrongs.

E. B. Edwards, for defendants.

C. J. Holman, for complainant.

E. F. B. Johnston, for Attorney-General.

STREET, J.]

[Feb. 15.]

*In re* FARLINGER AND VILLAGE OF MORRISBURG.

*Municipal corporations*—*By-law*—*Bonus to manufactory*—51 V., c. 28, s. 16—*Registration*, R.S.O., c. 184, s. 351—*Debentures*, R.S.O., c. 184, s. 342, s.s. 1.

A by-law granting a bonus to a manufacturing industry was passed by the municipal council of a village on the 29th October, 1888, after having been submitted to and approved by the electors. It provided on its face that it should take effect on 1st December, 1888. For this and similar by-laws an annual levy was required of an amount exceeding ten per cent. of the total annual municipal taxation of the village.

*Held*, that although the by-law was in contravention of s.s. 4 of s. 16 of 51 V., c. 28, yet, having regard to the provisions of s. 1, and by the operation of s. 16, s.s. 5, the by-law was withdrawn from the effect of s.s. 4.

2. That s. 351 of R.S.O., c. 184, is merely directory; and the by-law having being passed by a council having jurisdiction to pass it, all the conditions entitling them to pass it having been performed, their power to