

## NOVA SCOTIA.

SUPREME COURT.

FULL COURT.

APRIL 29TH, 1911.

GIFFORD v. CALKIN ET AL.

*Conflict of Laws — Action in Nova Scotia Supreme Court upon a Judgment Obtained in Supreme Court of New Brunswick—Promissory Note Subject-matter of Action — Lex Fori — Enforcing Judgment in Personam — “Foreign Judgment”—Rule of Private International Law Considered.*

Appeal from the judgment of MEAGHER, J., in favour of plaintiff in an action to enforce in this province a judgment recovered by plaintiff against defendants in the province of New Brunswick.

F. L. Milner, in support of appeal.

H. Mellish, K.C., and W. F. O'Connor, K C, contra.

The judgment of the Court was delivered by

DRYSDALE, J.:—This action is upon a foreign judgment, that is to say, upon a judgment obtained by the plaintiff against the defendants in the Supreme Court of New Brunswick. At the time of the process in the New Brunswick Court the defendants were residents of and domiciled in the province of Nova Scotia, did not appear in the said action, and, as it is contended, did not in any way submit themselves to the jurisdiction of the said Court of New Brunswick.

The learned trial Judge, Mr. Justice Meagher, has held that because the note sued upon in New Brunswick was payable in that province the defendants must be held to have contracted to submit to the forum of the plaintiffs residence (New Brunswick) with all the procedure and consequences incident to the exercise of jurisdiction by the Court of that province, and hence that the judgment of a Court of competent jurisdiction over the defendants imposes a duty or obligation on the defendants to pay the sum for which judgment is given, which the Courts of this country ought to enforce.