valid guarantee and obligation to pay all excess over $30,000 of the cost of expropriation for the right of way." By the Act of incorporation of the town of Levis, no power or authority is given to the corporation to give such guarantee. The statute 44 and 45 Vict. ch. 40, was passed on 30th June, 1881, and the by-law forming the guarantee was passed on the 27th of July following.

Held (reversing the judgment of the Court of Queen's Bench, Appeal side, P. Q., and restoring the judgment of the Superior Court), that the statute in question did not authorize the corporation of Levis to impose burdens upon the municipality which were not authorized either by their Acts of incorporation or other special legislative authority, and therefore the by-law was invalid and the injunction must be sustained.

Irvine, Q.C., for appellants.

Languedoc, for respondents.

STEVENS v. FISK.

Divorce in United States—Validity of, in Canada —Matrimonial domicile—Married Woman—Right to sue as femme sole—When—Art. 14 C.C.P.—Comity of nations.

In 1871 the parties F. and S. being native American citizens were married in the State of New York, where they then had their domicile. In 1872 they both came to Canada and established their domicile at Montreal. At the time of the marriage S. (the appellant) was possessed of a considerable fortune in her own right, which soon after her marriage she entrusted to the care and custody of her husband. In 1876 S. left her husband to return to the United States, and in 1880 she commenced a suit in the Supreme Court of New York against her husband for divorce for cause of adultery. It was served upon F. at Montreal. He appeared by attorney, and after proof, a decree of divorce was pronounced.

In an action brought by S. as a *femme sole* against F. for an account of her fortune, she set forth the facts of the marriage and of the divorce, and at the trial it was proved that by the laws of the State of New York the husband had no control over the separate property of his wife, and that she continued to exercise her rights over her own property the same as if she were a *femme sole*.

Held (reversing the judgment of the Court *a quo*, STRONG, J., dissenting),

1st. *Per* FOURNIER, HENRY and GWYNNE, JJ., that it was not necessary for S., a foreigner, to obtain the authorization required by Arts. 176 or 178 C. C., in order to sue (*ester en jugement*) as in her own country such authorization is not necessary. (Art. 14, C.C.P.)

2nd. *Per* RITCHIE, C.J., and HENRY and GWYNNE, JJ., that F. having appeared before and submitted to the jurisdiction of the Supreme Court of New York, the matrimonial domicile of both parties, and that Court having, as appears by the evidence, jurisdiction to entertain the suit, the decree of divorce obtained by S. was valid and binding on the parties here by comity of nations.

Appeal allowed with costs.

Laflamme, Q.C., and *Lafleur*, for appellants.

Kerr, Q.C., for respondent.

New Brunswick.]

J. D. LEWIN ET AL. v. GEORGIANA WILSON ET AL.

Statute of limitations - Ch. 84 s. 40, and ch. 85 ss. 1 and 6 Con. Stat. N.B.—Covenant in mortgage deed—Payment by co-obligor.

J. H. borrowed $4,000 from M. C. on the 27th September, 1850, at which date J. H. and J. W. gave their joint and several bond to M. C., conditioned for the re-payment of the money in five years, with interest quarterly in the meantime. At the same time, and to secure the payment of the $4,000, two separate mortgages were given, one by J. H. and wife on H.'s wife's property, and one by J. W. and wife on W.'s property. Neither party executed the mortgage of the other. The mortgage from J. W. contained a provision that upon repayment of the sum of £1,000 and interest by J. W. and J. H., or either of them, their, or either of their heirs, executors, etc., according to the condition of the bond above mentioned, then the said mortgage would be void. A similar provision being inserted in the mortgage from J. H. The bond and mortgages were assigned to L. et al. (the appellants) in 1870, and the principal money has