

were never applied to the paympt of the debentures issued for the last mentioned loan in interest or principal; that the Trustees accounted to Her Majesty, as well for the said loans as for the tolls collected by them; that at no time had there been a fund in the hands of the said Trustees adequate to the payment, in interest and principal, of the debentures issued for said loans; that the respondents are holders of debentures for both of the said loans to an amount of \$70,072, upon which interest is due from the 1st July, 1872; that the debentures so held by them fell due after the Union, and that Her Majesty is liable for the same, under sect. 111 of the B.N.A. Act, 1867, as debts of the late Province of Canada existing at the Union.

In his defence to this Petition, Her Majesty's Attorney General did not deny the liability of Her Majesty for the debts of the late Province of Canada, but he denied that the debentures in question were debentures of the Province of Canada; that the moneys for which they were issued were borrowed and received by Her Majesty; that there was any undertaking or obligation on the Province of Canada to pay the whole or any part of the said debentures.

Held, affirming the judgment of the Exchequer Court, that the debentures in question were debentures of the late Province of Canada: therefore, under the provisions of the B. N. A. Act, the Dominion of Canada was liable, but for the capital only of the said debentures, it being provided by cap. 235, sec. 7, that no money should be advanced out of the Provincial funds for the payment of the interest. (Ritchie, C.J., and Gwynne, J., dissenting).

Lash, Q.C., and *Church, Q.C.*, for Appellants.
McCarthy, Q.C.; and *Irvine, Q.C.*, for Respondents.

JONAS, Appellant, v. GILBERT, Respondent.

By-law—Power to impose License Tax—Discrimination between residents and non-residents—Ultra vires of 33 Vict. c. 4, (N. B.)

This was an action against the Police Magistrate of the City of St. John, for wrongfully causing the plaintiff (Jonas), a commercial traveller, to be arrested and imprisoned on a warrant issued on a conviction by the Police Magistrate, for violation of a by-law made by

the Common Council of the city of St. John, under an alleged authority conferred on that body by 33 Vict. c. 4, passed by the Legislature of New-Brunswick. The by-law in question authorized "the mayor or his deputy, as aforesaid, to demand and receive from any and every such person to whom license shall be granted, as aforesaid, for the use of the Mayor, Aldermen and Commonalty of the said city, the sum of money hereinafter mentioned and specified, according to the following scale, namely:

Professional men, as barristers, attorneys, notaries, physicians, surgeons, practitioners in medicine or any art of healing, dentists, if resident, \$20. If transient persons, not having taken up a residence, \$40.

Wholesale or retail merchants or dealers or traders, forwarding or commission merchants, lumber merchants or dealers, the agents of merchants or traders, express agents, general brokers, manufacturers, apothecaries, chemists and druggists, if resident, \$20. If transient persons, not having taken up a residence, \$40.

Persons not having their principal place of business in this city, selling or offering for sale, goods, wares, and merchandise of any description by sample card, or any other specimen, and the agents of all such persons, \$40.

Persons using any art, trade, mystery or occupation, or engaged in any profession, business or employment within the city, not coming under any of the before-mentioned, if resident, \$20. If transient persons, not having taken up a residence, \$40.

Held, that assuming the Act 33 Vict. c. 4, to be *intra vires* of the Legislature of New Brunswick, the by-law made under it was invalid, because the Act in question gave no power to the Common Council of St. John, of discrimination between residents and non-residents, such as they had exercised in this by-law.

Bethune, Q.C., and *Maclaren*, for Appellants.
Tuck, Q.C., for Respondent.

DWE, Appellant, v. WATERBURY, Respondent.

Slander—Public Officer—Privileged Communication.

The appellant, Dewe, having been appointed Chief Post Office Inspector for Canada, was engaged under directions from the Postmaster General in making enquiries into certain irregularities which had been discovered at