

MEREDITH, C.J.:—According to the affidavit of the president of the defendant company, filed upon the motion for judgment, the company, at the time the Quebec action was begun, had no office or agent in the province of Quebec, the company having, as the affidavit states, “sold out its Quebec business on the 1st day of July, 1906.”

The defendant company were incorporated under the Ontario Joint Stock Companies Letters Patent Act, and their head office was and is at Toronto.

In the exemplification of the Quebec judgment the company are described as a body corporate and politic having their head office in Toronto, Ontario, and also a business office in Montreal for the province of Quebec, and the judgment is a default judgment for want of appearance.

Granting that the original cause of action arose in the province of Quebec, the question for decision is whether, assuming the statements in the affidavit of the president of the company to be true—as they must be presumed to be for the purpose of the motion or judgment—is the judgment of the Quebec Court one which should be recognized by the Courts of this province as a judgment binding on defendants?

It was conceded by counsel for plaintiff, and there is no doubt, that, unless jurisdiction was conferred upon the Quebec Court by 22 Vict. ch. 5, sec. 58, and the provisions of that section are still in force, the judgment sued on is in this province a nullity.

The general rule of international jurisprudence applicable is stated by Earl Selborne in delivering the judgment of the Judicial Committee of the Privy Council in *Sirdar Gurdial v. Rajah of Faridkote*, [1894] A. C. 670, 683, 684, to be that “the plaintiff must sue in the Court to which the defendant is subject at the time of the suit (*actor sequitur forum rei*).” . . .

*Court v. Scott*, 32 C. P. 148, was relied upon by counsel for plaintiff as taking the case at bar out of the general rule, and giving jurisdiction to the Circuit Court to pronounce a judgment against the appellants which they, though domiciled in this province, were bound to obey, and on the other hand it was contended by counsel for the defendants that the effect of subsequent legislation has been to repeal 22 Vict. ch. 5, sec. 58, upon which *Court v. Scott* was based, as far, at all events, as it affected persons resident in On-