

J. Leitch, K.C., and J. A. C. Cameron, Cornwall, for plaintiffs.

D. B. Maclellan, K.C., and C. H. Cline, Cornwall, for defendants.

ANGLIN, J.—The municipality of Roxborough did their banking business with the Avonmore branch of La Banque Ville Marie, the municipal funds being deposited to the credit of an account intituled "Alex. Munroe, treasurer of Roxborough, Moose Creek."

By by-law No. 10, passed on 20th April, 1899, the municipal council of Roxborough purported to authorize the treasurer and reeve "to borrow from the Ville Marie Bank such money as may be required for present use in connection with the drainage works to be completed in the Fraser creek." Money being immediately required for preliminary survey work, the note in question was discounted with the Avonmore branch on 24th April, and its proceeds, \$325, placed to the credit of the account above mentioned. . . . The \$325 appears to have been paid out on 27th April for survey work on the Fraser creek drainage scheme. The notice of presentation of the petition to wind up the bank was given on 9th August, and the winding-up order was made on 10th August, 1899. The balance then standing to the credit of the Alex. Munroe account was \$823.23. The note in question matured on 24th August, 1899, and was duly protested for non-payment. Three dividends of 5 per cent. each have been declared by the liquidators with the approval of the Court, on 20th June, 1900, 4th March, 1901, and 24th April, 1902, respectively. Upon the account of the township in the name of Munroe the three dividends amounted to \$123.48, which is still in the hands of the liquidators. Defendant Munroe does not appear to have had any personal account with the bank. Defendant McDiarmid, however, had such an account. It is in evidence that the liquidators hold a sum of \$82.25, representing the three dividends upon an account standing in his name, the balance to the credit of which at the date of the suspension . . . appears to have been \$548.34. To these moneys it is admitted that McDiarmid is beneficially entitled.

The evidence of the manager of the Avonmore branch of the bank in 1899 is, in effect, that the loan on the note in question was regarded by him as a loan to the municipal corporation; that defendants affixed their signatures to the note in their official capacities, and solely to evidence the liability