breach of the defendant's warranty that the forging manufactured by him was reasonably fit for the purpose for which it was intended. It was delivered and used for some time in Ontario, when it proved defective.

Held, that the breach of warranty occurred in Ontario, and therefore the cause of action arose there within the meaning of sec. 49.

B. M. Britton, Q.C., for the plaintiff.

Ogden, for the defendant.

Dominion Bank v. Blair.

Principal and surety—Discharge of surety by mode of dealing with securities.

In the former judgment, reported in 30 C. P., the sole question was as to the validity of the bond. The other question upon which judgment is now given is whether even though the bond is valid, the plaintiffs had not so dealt with the property and securities of the principal debtor as to discharge the securities from all liability. The evidence failed to establish the defendant's contention, and the plaintiffs were therefore held entitled to recover.

Robinson, Q. C., and *W. Mulock*, for the plaintiffs.

Hector Cameron, Q. C., and *J. E. Farewell*, for the defendants.

Long v. Guelph Lumber Company, Limited.

Company—By-law to issue preference stock—Illegal conditions—Validity of shares.

The defendants, a company incorporated under the Ontario Joint Stock Letters Patent Act, passed a by-law under sec. 17 of the Act for the issue of $75,000 of preference stock in shares of $1.000 each, which was to have preference and priority as respects dividends and otherwise as therein declared, namely, 1. "The company guarantee *eight* per cent yearly to the extent of the preference stock up to the year 1880, and over that amount (8 per cent) the net profits will be divided among all shareholders *pro rata*. 2. Should the holders of preference stock so desire, the company binds itself to take that stock back during the year 1880 at par, with interest at eight per cent per annum, on receiving six months' notice in writing," &c. The plaintiff subscribed for and was allotted five shares amounting to $5,000, which he fully paid up, but contending that the by-law was *ultra vires* by reason of the above conditions, brought an action to recover back the money so paid by him for the shares.

Held, that the first condition of the by-laws was not *ultra vires*, as its proper construction was not that the interest was to be paid at all events, and so possibly out of capital, but only if there were profits out of which it could be paid; but that the second condition to take back the stock was *ultra vires*, the Act not empowering the company to do so.

Held, however, that the plaintiff could not recover, for that notwithstanding one or even both of such conditions were invalid, there was authority to issue the preference shares themselves which were therefore valid.

McCarthy, Q. C., for the plaintiff.

Bethune, Q. C., for the defendants.

Mahon v. Nicholls.

Venue—Change of—County Court cases—Order of Clerk of Crown—Appeal from.

Held, there is no appeal to the full court in term from the order of the Clerk of the Crown in Chambers on an application made under R. S. O. c. 56, s. 155, for a change of venue in County Court cases.

Semble: in such cases the proper course is to follow the practice in force in Superior Court cases.

R. M. Meredith, for the plaintiff.

Ogden for the defendant.

The Canada Permanent, &c., Society v. Taylor.

Free grant lands.—Mortgage. — Execution by wife of patentee.

Under sec. 16 of the Free Grant and Homestead Act, R. S. O. ch. 24, patents to be issued for lands located under that Act must state, in the body thereof, the name of the original locatee; the date of the location, and that the patent is issued un-