

larity to be complained of by the defendant.

Ontario Bank v. Kirby, 16 C.P. 35, followed.

Nor could a third party object that such return was made at the instance of the solicitor of the plaintiffs.

Held, also [reversing the judgment of the County Court], that a return of *nulla bona* could be properly made after the expiration of the writ, and that the transcript and judgment in the County Court founded thereon were valid and regular.

MERCHANTS' BANK V. LUCAS.

Bill of exchange—Forgery—Ratification.

H.Y., after having for some time carried on business as "The Hamilton Cotton Co.," in partnership with the defendants, retired from the company and entered their employ as general manager, blank drafts, etc., signed by the company, being placed in his hands for the financial purposes of the company. In June, 1883, H.Y., for his own purposes, drew in the name of the defendants on M. at Montreal, for \$2,760, which was discounted by the plaintiffs and the draft sent by them to Montreal for acceptance. The same was duly honored by the drawee, and would mature on the 28th of September. About a month before the maturing thereof, H.Y. waited on the bank authorities and requested them to recall the draft, alleging that the company were settling with the acceptor. On the same day, the solicitor for the company obtained from H.Y. an order or letter addressed to the defendants, informing them of the fact of his having so used their name on the draft, and requesting them to retire and charge the same to his account, and as it had been discounted for his accommodation and proceeds applied to his own use, they (defendants) should not pay any part of it.

Shortly afterwards the defendants on distinct occasions called at the bank, L. asking to be shown the draft, which was handed to and closely examined by him, and when asked why he was so critical in his examination, answered that the signature of I.M.Y. was usually not so shaky, that he would call in a day or two and see if the draft was taken up. I.M.Y., on visiting the bank after examining the draft very carefully, when he was asked by one of the officers of the institution if he

would send a cheque for it, answered it was too late that day, but would send a cheque the following day. No cheque was sent, however, and on or about the 15th September the manager of the bank and the bank's solicitor called to see I.M.Y., and asked why the cheque had not been sent by him, when he admitted having promised to send such cheque; that at the time he had thought he would send it, and could not say why it had not been sent. He declined to say whether or not the signature to the draft was his. H.Y. subsequently left the country. It was shown in evidence that at the time the draft was returned, and for some time afterwards H.Y. had a large amount to his credit in the books of the firm, and continued to have a balance to his credit until after the present action was commenced.

Held, [reversing the judgment of the C.P.D. 13 O.R. 520] that the conduct of the defendants was not such as to preclude them from setting up the defence of forgery.

Semble, the act of forgery not being an act professing to have been done for or under the authority of the person sought to be charged, is incapable of ratification.

HAGARTY, C.J.O., dissenting.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

FERGUSON, J.]

[Jan. 4.

TOWNSHIP OF NORTH DORCHESTER V. COUNTY OF MIDDLESEX.

Municipal corporations—Duty of erecting and maintaining "bridges over rivers"—R.S.O. c. 184, s. 535.

Section 535 of the Municipal Act, R.S.O. c. 184, provides that "it shall be the duty of County Councils to erect and maintain bridges over rivers forming or crossing boundary lines between two municipalities (other than in the case of a city or separated town) within the county."

The question in this action was whether the bridges over Doty's Creek, Kettle Creek, and Caddy's Creek, each of which is a stream crossing a boundary line between two town-