

ant was not bound by the legislation which enabled this order to be made, and as that is so, in my opinion there was jurisdiction in the Judge to make the order if he thought fit," &c. Both were foreigners but the contract was made in London and to be performed there. See *Corse v. Moon*, 22 N. S. R. 191.

If the judgment is not effective and one which should be so regarded in this Court, the cause of action having arisen within the ambit of the jurisdiction of the foreign Court, then in every case, a creditor, who is entitled to have his debt paid at his own door, must of necessity at a great disadvantage and at very largely increased expense, inconvenience and loss of time, for which he cannot recover compensation, seek the forum of his debtor to obtain his just rights.

If the defendants' contention is sound there is no necessity for the enactment of order 35, rule 38, because if there was no defence made to the original action and no express submission to the jurisdiction of that Court, the judgment was a nullity. Such apparently was not the view of the Crown law officers of England who advised the disallowance of this statute, first passed in Nova Scotia shortly before Confederation, and which was of the same purport as Rule 38. Our legislature in enacting sec. 27, or ch. 13 of 1880 must have deemed a foreign judgment like the present valid, and enforceable here, or it would not have passed it.

I regret the original cause of action is not sued upon because if not barred the case would probably be easy of solution. If an application to amend were made I should grant it as a matter of course.

Upon the whole case, though considerably impressed with the defendants' contention, I am of opinion the plaintiff is entitled to recover and there will be judgment accordingly and with costs and interest.

I have devoted as much time as I could to this case consistent with my other duties in the short time since the trial, and have hastened my decision so that the parties may have an appeal heard at the approaching term and not be obliged to wait until next autumn.