

*Held*, that it was not necessary to prove that the bond was assigned before the issue of the writ. That will be presumed to be done first, which ought to be so. In any case the assignment of the bond is only a matter of form, and may be made at any time.

Thanksgiving Day is a legal holiday within the meaning of the words of s. 54 of the Act 52 Vict., c. 27: "Provided that when Christmas Day or New Year's Day or any other legal holiday shall fall upon Thursday, the said court shall be held on the Friday in such week," and where a summons, returnable on Thursday, Nov. 17, was not served two clear days before the return day as provided by s. 72 of the said Act, the cause was properly heard and determined on Friday, Nov. 25, being "the court day next after the return of the process," within the meaning of the said last mentioned section. Verdict for plaintiff confirmed.

*H. H. Pickett and A. A. Wilson*, K.C., for plaintiff. *W. B. Wallace*, K.C., for defendant.

En Banc.]

CRUISE v. CITY OF MONCTON.

[Feb. 22

*Local board of health—No authority to bind the corporation of the city or town for which it is constituted.*

The plaintiff, a duly registered physician and surgeon, was employed by the local board of health of the city of Moncton, to perform certain services in connection with the out-break of small-pox in that city, and, having failed to get his bill paid, brought an action against the city corporation for the recovery thereof. The board of health was constituted under the Provincial Board of Health Act.

*Held*, on demurrer to defendant's pleas, that the board of health had no authority in law to create a liability on the city corporation. Judgment for defendant on demurrer.

*Harvey Atkinson*, for plaintiff. *W. B. Chandler*, K.C., for defendant.

En Banc.]

MELLON v. MUNICIPALITY OF KINGS.

[Feb. 22

*Supreme Court Act, s. 373—Costs on entry of nolle prosequi.*

A judge has no power under s. 373 of the Supreme Court Act to make a certificate depriving of their costs defendants against whom a nolle prosequi had been entered. It is only one or more of several defendants for whom a verdict passes on a trial, whom a judge can deprive of his or their costs by certifying that there was reasonable cause for making such person or persons defendant or defendants. Certificate rescinded with costs.

*Stockton*, K.C., for plaintiff. *A. S. White*, K.C., for defendants.