

bonds to be issued by the municipality intituled almshouse bonds, parish of Bathurst, which bonds shall be wholly chargeable on said parish, and shall bear such interest, be in such form, and for such amount . . . as the commissioners may recommend, and shall be signed by the warden and secretary-treasurer, and have the corporate seal affixed thereto, and be placed in the hands of the secretary-treasurer of the municipality to be disposed of for the purposes of this Act," and the proceeds of which bonds "shall be placed to the credit of the said commissioners, and be paid out in their order for the purposes of this Act and for no other purpose." The county council was authorized to assess and levy upon the ratepayers of the parish of Bathurst the money necessary to pay the principal and interest of such bonds.

The bonds were issued in the form of a certificate: "that the parish of Bathurst is indebted to ——— in the sum of ———, which is payable . . . pursuant to an Act" etc., signed by the warden and secretary-treasurer, and bearing the corporate seal.

GREGORY, J., held that the Act authorized the municipality to pledge its own credit, but that it was not liable on the form of bond or certificate as issued.

En Banc.]

MCCATHERINE v. BREWER.

[Feb. 22.

Written agreement—Whether evidence of goods sold and delivered—Oral evidence in relation thereto.

Plaintiff, a dealer in sewing machines, musical instruments, etc., put defendant in charge of a branch agency on terms of allowing him one-half the profits on the goods sold. The business was continued for several years on this basis, until October, 1893, when plaintiff and defendant settled for all previous sales, and signed the following agreement in reference to the goods then on hand: "I hereby authorize M. B. to sell the stock now on hand . . . , any over \$500 he is to have, that is, when he pays me \$500 he is free." (Sgd.) "D. McC."

"It is agreed that when I pay D. McC. \$500 all stock on hand is mine." (Sgd.) "M. B."

In the year 1900, nearly all of the goods having been disposed of, plaintiff brought an action for goods sold and delivered and an account stated. On the trial before the chief justice without a jury both parties without objection gave evidence of their respective views of the transaction and of what took place on their arriving at their understanding, plaintiff asserting that he sold the goods though not stating any words by which the sale was effected, and defendant alleging that, although he offered to buy the goods outright and give his notes for them, plaintiff refused to sell. The chief justice entered a verdict for plaintiff for \$500 with leave to defendant to move for a reversal of the same or for a nonsuit.

Held, TUCK, C.J., and HANINGTON, J., dissenting, that the oral testi-