

repaying the bank, because the by-law did not specifically state that the money was to be paid to the bank. There is nothing in the Municipal Act which prevents a council, with the approval of the ratepayers, from raising money for the repayment of such a debt as this. A municipality, having so borrowed money and expended it for the benefit of the ratepayers, is not to be restrained from being honest enough to pay it back.

O'Meara, for the plaintiffs. *Aylesworth*, Q.C., for the defendants, the Molsons Bank. *W. R. Smyth*, for the defendant Sweetland, the sheriff.

FIRST DIVISION COURT, COUNTY OF ONTARIO.

Denton, Acting Co. J.] ONTARIO LADIES COLLEGE *v.* HODGIN. [Jan. 7.
Division Court—Jurisdiction where cause of action arose—57 Vict., c. 23, s. 12
—60 Vict., c. 14, s. 12.

The defendant, residing in the Province of Quebec, subscribed for \$100 stock in the plaintiff company. A call was made on the stock payable at the Western Bank in the town of Whitby, Ontario, and the defendant having made default in payment, this action was brought for the amount of the call.

Held, that the cause of action arose partly within the jurisdiction, and that where the claim is for a sum within the jurisdiction the action lies even though the defendant resides out of the jurisdiction.

J. B. Dow, for plaintiff. *Farewell*, Q.C., for defendant.

Province of Nova Scotia.

SUPREME COURT.

(Before McDonald, C.J., Ritchie, Townshend, JJ., and Graham, E.J.)

THE QUEEN *v.* HALIFAX ELECTRIC TRAMWAY CO.

Lord's Day observance—Provincial Act amending provisions of old provincial criminal law held ultra vires.

Prior to 1867 c. 159 of the Revised Statutes of Nova Scotia (3rd series) was part of the criminal law of the province.

By the British North America Act the criminal law was placed within the exclusive legislative authority of the Parliament of Canada, which authority was exercised in respect of c. 159 by the repeal of two of its sections.

Sec. 2, which was not repealed, was as follows: "Any person who shall be convicted before a justice of the peace etc., of servile labor, works of necessity and mercy excepted, on the Lord's Day shall for every offence forfeit, etc."

By the Provincial Acts of 1891, c. 32, it was sought to amend this provision of c. 159 by enacting that "a body corporate employing or directing any person to perform servile labour on Sunday is guilty of performing servile labour on Sunday within the meaning of the second section of the principal Act and is liable," etc.

Held, (allowing a writ of prohibition to restrain the stipendiary of the