

did not legally own the stock allotted to S. and could not compel him to pay for it.

2. The provision in said Act that stock on which calls are unpaid cannot be transferred is imperative and cannot be waived by the company.

Appeal allowed with costs.

Hellmuth, K.C., and Gallagher, for appellant. Smythe, K.C., for respondents.

N.B.] CROCKETT v. TOWN OF CAMPBELLTOWN. [June 1.

*Municipal corporation—Water service—Statutory authority—Construction of Statute—Water for domestic, fire and other purposes—Motive power—Discretion of council.*

The charter of a town (50 Vict. c. 58, s. 6 (N.B.)) provides that "the town council of the town of Campbellton are hereby authorised and empowered to provide for the said town a good and sufficient supply of water for domestic, fire and other purposes."

*Quære*, per DAVIES J., and ANGLIN, J.:—Could the town be compelled to furnish water power for a motor in an industrial establishment?

*Held*, per IDINGTON, J., FITZPATRICK, C.J., and DUFF, J., contra that the charter does not empower it to do so.

The town council by by-law, fixed the rates to be paid for water including "printing presses one service, 1½ pipe or less, per year \$30." C., proprietor of a newspaper and printing establishment, connected his premises with the water mains by a two-inch pipe and received water for a year for his motor paying said rate therefor. He then continued the use of the water for some months when the council passed a resolution that newspaper proprietors should be notified that the supply would be cut off at a certain date, which was done. C. brought an action for damages to his business.

*Held*, per IDINGTON, J.:—The council had no authority to make the contract with C.; there was no authority in the absence of a special contract with the town, to place a two-inch service pipe for receipt of water, and if the municipality had power to enter into this agreement it was under no duty to exercise it.

Per FITZPATRICK, C.J., and DAVIES, DUFF and ANGLIN, JJ.:—If any contract existed it was one under which C. was entitled to a supply of water for his motor so long as the town council should, in its discretion, deem it advisable to continue it.