

may sell, and if not the owner at the time of the yearly assessment no rate can be imposed in respect of the property. Under s. 47 the supporter is relieved, after notice withdrawing his support, as to future rates, but is not exempt as to any rate imposed before withdrawal. In case of rates under s. 61, he cannot relieve himself by notice of withdrawal, but remains liable during the currency of the by-law unless he ceases to be resident within the particular section within which the separate school is situate.

The first question was answered as follows:—Property which was owned by a separate school supporter and so assessed for rates imposed under by-laws passed before the time when the supporter has withdrawn does not remain liable for such rates in the future unless the property is still owned by him at the time of each assessment, and he resides in the section.

The second question was answered as follows:—The attempt to withdraw from payments to be made under a by-law under s. 61 is nugatory, and the ratepayer who was such when the loan was effected remains liable for future assessments to the extent of the ratable property he possesses so long as he is resident within the school district.

*J. R. Cartwright*, K.C., for the Minister of Education. No other counsel appeared.

Boyd, C.]

ROURKE v. WEIDENBACK.

[May 6.

*Writ of summons—Service out of jurisdiction—Cause of action—Breach of contract—Tort.*

An appeal from an order of a local judge refusing to permit service of the writ of summons to be made in Montreal, Que., on defendant, Ogilvy, residing there. The plaintiff sought damages and costs against both defendants for alleged conversion of a valuable picture, alleging that it was obtained from him by the defendant, Weidenback, in the city of Ottawa, Ont., under an agreement to return it after a short time, but that, contrary to the agreement, he delivered the picture to the defendant, Ogilvy, as his agent, who continued to wrongfully hold it. The defendant, Ogilvy, swore that the picture was pledged to him by Weidenback in Montreal as security for a loan.

*Held*, upon the material, that the transaction must be regarded as one of conversion by the defendant, Weidenback, begun by the removal of the picture from Ontario and continued by the delivery in Montreal, and there was, besides, an independent transaction by the pledge to the defendant, Ogilvy. If he knew the facts as alleged by the plaintiff, he might be guilty of a tort, but it was committed in Quebec; if he did not know he might be able to hold the picture until paid his loan. There was no contractual relation between the plaintiff and Ogilvy, but if there was the breach would be in Montreal, not in Ontario. Rule 162 (e) therefore did not apply. Appeal dismissed.

*E. Mahon*, for defendant. *J. F. Orde*, for plaintiff.