and the case was fought out on the merits. The Judge reserved his decision, and subsequently gave judgment for plaintiff. A motion for a new trial was refused, and a motion is now made for prohibition.

In addition to the objection already mentioned, it was urged that this is an action under the Saw Logs Driving Act, R. S. O. 1897 ch. 143, and that the jurisdiction of the Court is ousted by sec. 16 of that Act.

The Judge in the Court below, from a consideration of the case, came to the conclusion that an action lay at the common law and independent of the statute; and therefore overruled the objection.

In the view I take of the case, I do not think that I am called upon to examine into the correctness of this decision. The principles upon which a motion of this kind should be disposed of have been very recently considered . . . in Re Township of Ameliasburg v. Pitcher, 13 O. L. R. 417, 8 O. W. R. 915, and Re Errington v. Court Douglas, 14 O. L. R. 75, 9 O. W. R. 675, and I adhere to all that was said in these cases. In determining whether a certain state of facts gives a cause of action at the common law, the Judge below "may . . . mis-decide the law as freely and with as high an immunity from correction, except upon appeal, as any other Judge:" Re Long Point Co. v. Anderson, 18 A. R. 401, 408. . . .

I do not suggest that the decision is unsound. Considerable support for it may be found in Drake v. Sault Ste. Marie Pulp and Paper Co., 25 A. R. 251; and I do not find that Cockburn v. Imperial Lumber Co., 26 A. R. 19, 30 S. C. R. 80, decides anything to the contrary.

As to the other ground, I do not think that sec. 190 of the Division Courts Act prevents the Court from having, or acquiring, if the word be preferred, jurisdiction: In re Sebert v. Hodgson, 32 O. R. 157.

The motion fails and will be dismissed with costs.