

Full Court.] WILLIAMS v. HAMMOND. [Nov. 22, 1906.
Master and servant—Wrongful dismissal—Insolence as ground of dismissal.

Appeal from judgment of PERDUE, noted, 42 C.L.J. 574, dismissed with costs.

Haggart, K.C., for plaintiff. *Pitblado*, for defendant.

KING'S BENCH.

Mathers, J.] [Nov. 23, 1906.

BARTLETT v. HOUSE FURNISHING CO.

Jury trial—Illegal seizure—Trespass.

Appeal by defendants from an order of the referee refusing to strike out the plaintiff's jury notice. The statement of claim alleged that the defendants "wrongfully and illegally seized and carried away" certain household furniture from the plaintiff's dwelling house, and claimed damages.

Plaintiff insisted upon trial by a jury, relying on s. 59 of the King's Bench Act, R.S.M. 1902, c. 40, which provides that "action for . . . illegal or excessive seizure . . . shall be tried by jury unless the parties . . . expressly waive such trial."

Defendants contended that what was charged was at most a trespass and relied up sub-s. (b) of the same section which provides that, subject to its provisions, all actions shall be tried by a judge without a jury unless otherwise ordered by a judge.

Held, that an illegal seizure of goods is a trespass although every trespass to goods is not an illegal seizure, for an injury to the goods without seizure might be a trespass. The word "trespass" has a wider meaning than the words "illegal seizure" and it may be that the Legislature intended to limit the right of trial by jury to that particular form of trespass which consists in an illegal seizure, but they certainly have provided for it in the latter case.

Appeal dismissed with costs.

McMeans, for plaintiff. *Stacpoole*, for defendants.

Mathers, J.]

[Nov. 26, 1906.

HOLLIDAY v. BUSSIAN.

Fire—Negligence.

The findings of fact by the trial judge were that the defendant, who was very shortsighted, while examining a fence on