I. F. Hellmuth K.C., and Angus MacMurchy, K.C., for the defendants.

W. M. Douglas, K.C., and G. F. Mahon, for the plaintiffs.

HON. MR. JUSTICE GARROW:—The case was in this Court before, when a new trial was directed. It has now been tried again; and, for the second time, upon essentially the same evidence, a jury has found in favour of the plaintiffs, while reducing the damages awarded at the former trial.

The defendants still complain, saying that the verdict is contrary to the evidence and that the damages are excessive.

I do not see how we can properly interfere on either ground.

It cannot, I think, be said that there was no evidence to go to the jury; and while I may think—as I certainly do—that the preponderance of testimony is in favour of the defendants, I cannot substitute my opinion for that of the jury or interfere with its conclusion, except upon some error or other substantial ground, which, so far as I can see, does not appear.

No objection was taken to the learned Judge's charge; and from a perusal of it, I cannot say that the findings of the jury could in any proper sense be called perverse. That they are contrary to what I regard as the weight of evidence, is not alone, in my opinion, under the circumstances of the case, a sufficient justification for directing a third trial, which in all probability would afford the defendants no substantial relief.

Nor do I perceive any sufficient ground to interfere upon the question of damages. There was, I think, some evidence upon the subject; and the quantum—within reasonable limits of course, which I think have not been exceeded—was very much a question for the jury.

I would dismiss the appeal with costs.

HON. SIR CHARLES MOSS, C.J.O., and HON. MR. JUSTICE MACLAREN and HON. MR. JUSTICE MAGEE, concurred.

HON. MR. JUSTICE MEREDITH (*dissenting*):—The uncertainty which prevailed after the first trial of this action by reason of the jury not having been polled, or the facts as to how they were divided in their findings not otherwise ascertained, do not now prevail; the jury were polled at the last trial, and in that way it was made plain that the same ten