

merits, and that the statements complained of were published in good faith, and therefore the order should be set aside.

Swain v. Mail Printing Co., 16 P.R. 132, distinguished.

Neville for the plaintiff.

Gunther for the defendants.

FALCONBRIDGE, J.]

[May 14.

HAGER v. JACKSON.

Costs—Scale of—Action on bond—Penalty—Ascertainment of amount recoverable—R.S.O., c. 47, s. 19.

In an action on a bond for \$500 given to secure payment of costs of the Supreme Court of Canada in a prior action, judgment was given for the plaintiff for \$318.55, the amount at which such costs were taxed and certified in the Supreme Court.

Held, that the amount recovered was not ascertained by the act of the parties or by the signature of the defendants, within R.S.O., c. 47, s. 19, and the plaintiff was entitled to costs of the action on the scale of the High Court.

MacGregor for the plaintiff.

George Ross for the defendants.

Q.B. Div'l Court.]

[May 23.

HALLIDAY v. TOWNSHIP OF STANLEY.

Venue—Change of—Convenience—Appeal—New material—Change of circumstances.

The plaintiff's right to select the place of trial is not lightly to be interfered with, where it has not been vexatiously chosen.

And where the defendants, in moving to change the venue to the county where the cause of action arose, did not show a considerable preponderance of convenience in favour of the change, their application was refused; and the refusal was affirmed on appeal to a Divisional Court, composed of FALCONBRIDGE and MACMAHON, JJ.

Held, also, that the appeal must be dealt with on the facts as they were exhibited before the Master and Judge in Chambers, although since their orders the trial had been postponed from the spring to the autumn, and the court ought not to look at new material, nor listen to suggestions of possible changes, unless, in a proper case, to allow a new substantive application to be made.

L. G. McCarthy for the plaintiff.

Garrow, Q.C., and *D. Armour* for the defendants.