Divisional Court.] DOUGLAS *v.* HUTCHINSON. [Aug. 1.

Libel—City Solicitor—Newspaper—Comments in, on conduct of—Belief in truth of statements published—Erroneous charge—New trial.

The discussion of the conduct of a solicitor of a municipal corporation in that capacity, is a matter of public interest, and a newspaper is entitled to criticise or make fair comments thereon, but the statements on which the criticism or comments are based must be true, and not merely believed to be true.

Where, therefore, in an action for libel for statements published in a newspaper on which comments were made criticising the plaintiff's conduct as such solicitor, the jury, although they were told that any criticism on the plaintiff's conduct must be based on the truth, were, at the same time told that it was sufficient if the statements on which the criticism was founded were believed to be true, on which there was a finding for the defendant, such finding was set aside and a new trial denied.

MACMAHON, J., dissented.

Shepley, Q.C., for plaintiff. *John King*, Q.C., for defendant.

Province of Nova Scotia.

SUPREME COURT.

HENRY, J.] IN RE LAWRENCE H. MILLER.

Collection Act of 1894, c. 4—Warrant for commitment to jail—Where bad, new warrant can not be substituted after jailor's return under R.S., c. 117.

Application for discharge of prisoner under R.S., c. 117. Prisoner was confined in jail under the warrant of a Commissioner under the "Collection Act," N.S., Acts 1894, c. 4. The warrant was in the form schedule H to the Act, and recited "that the said debtor obtained credit for the said debt without having at the time any reasonable expectation of being able to pay the same, and obtaining credit for the said debt by false pretensions or representations." The warrant had previously recited the recovery of the judgment, but did not specifically state that the judgment was recovered for a debt. The jailor having returned the warrant, *Harris*, Q.C., moved for his discharge, citing the decision of RITCHIE, J. in *Re Moore*.

Ritchie, Q.C., admitted the warrant was bad, and asked for an adjournment to file a new warrant, citing *Rex* v. *Rogers*, 1 D. & R. 156, *Rex* v. *Taylor*, 7 D. & R. 622, *Reg.* v. *Lavin*, 12 P. R. Ont. 642.

HENRY, J., adjourned the hearing, reserving the question as to whether that course was proper, and also as to whether a new warrant could be substituted.

The matter coming on for further hearing, and a good warrant having been filed in the meantime,

Harris, Q.C.—The Judge should not have adjourned the proceedings: *In re Timson*, 5 L.R. Exch. 257; Paley on Convictions, 347; Short & Mellor,