TRESPASS TO GOODS—EVIDENCE—MALICIOUSLY ISSUING ATTACHMENT IN DIVISION COURT—EVIDENCE TO SUPPORT CLAIM FOR RENT—EXCESSIVE DAMAGES—LETTER—SECONDARY EVIDENCE.—The plaintiff took his vessel to defendant's ship yard at Oakville, to be repaired there by defendant, in accordance with a previous arrangement. The ways were occupied when she arrived, and the plaintiff went away, having said that he did not wish her hauled up in his absence. Defendant nevertheless took her out, and it was proved that a day or two after he said he would keep her on the ways against the plaintiff's will; but the repairs were proceeded with under the plaintiff's supervision, and were paid for by him.

*Held*, that there was no evidence to sustain a count in trespass for seizing and detaining the vessel, and that upon this evidence, and the facts more fully stated below, the plaintiff clearly could not maintain detinue.

The defendant having sued out an attachment from the Division Court, and seized under it certain materials employed in repairing the vessel —*Held*, that such attachment could not be warranted by any *intention* on the plaintiff's part to remove the property, the statute requiring an *attempt* to remove (Con. Stat. U. C. ch. 19, sec. 199); and there being no evidence of such an attempt, or of any reasonable ground for supposing it to have been made, that the defendant was liable for issuing the attachment without reasonable or probable cause.

The fourth count was for maliciously attaching for $96, when the plaintiff owed defendant only $22. *Held*, a good count, without shewing, as in the case of a distress for rent, that the goods were sold to satisfy more than the $22.

The defendant had claimed $74 for the rent of the ship-yard, which had been disallowed by the Division Court. The evidence in support of the claim was, in substance, that after defendant had worked on the vessel some time, a difficulty arose between him and the plaintiff, in consequence of which he refused to go on, and the plaintiff desired him to do nothing more. The vessel then remained in the yard for more than a month, until the plaintiff got her ready to launch, the defendant having notified the plaintiff that he must pay in advance; but there was no evidence of any letting or agreement. *Held*, that on these facts the jury were warranted in finding that the defendant had no reasonable ground for attaching for the rent.

The damages being in the opinion of the court, excessive, a new trial was ordered, unless the plaintiff would consent to reduce the verdict to a sum specified.

A letter written by defendant to plaintiff before issuing the attachment, saying that he was still willing to settle amicably, but that if the plaintiff refused to meet him in the same spirit he would push the matter to the utmost.—*Held*, not provable by secondary evidence, without a notice to produce.—*Hood* v. *Cronkite*, 29 U. C. Q. B. 98.

## MAGISTRATES, MUNICIPAL, INSOLVENCY, & SCHOOL LAW.

### NOTES OF NEW DECISIONS AND LEADING CASES.

SUSPENSION BRIDGE—ASSESSMENT OF—DECISION OF C. C. JUDGE, HOW FAR CONCLUSIVE.—The suspension bridge across the Niagara Falls at Clifton, with the stone towers, &c., supporting it, is land and real property, within the Assessment Act, 29 & 30 Vic. ch. 52, sec. 3.

The judge of the county court, on appeal from the court of revision, by which the assessment of such bridge as land at $150,000 was affirmed, reduced the assessment to $1000, on the ground that all except the land on which the towers stood was personal property: *Held*, that his decision was final, though clearly erroneous, and could not be questioned in an action; for he had jurisdiction to reduce the assessment, and the wrong reason given could not make his judgment less binding. — *The Niagara Falls Suspension Bridge Company* v. *Gardner*, 29 U. C. Q. B. 194.

ORIGINAL ROAD ALLOWANCE—ROAD USED IN LIEU THEREOF—BY-LAW TO OPEN ALLOWANCE, 29-30 VIC., CH. 31, SECS. 334, 338.—The original allowance for road between two concessions had never been opened across seven lots, though it had been to the east and west of those lots, and for more than sixty years had been enclosed with those lots, another line of road having been for the same period travelled in lieu of it, and used as the main highway. The township corporation passed a by-law to open the original road allowance, which the proprietor of one of these lots moved to quash. It was sworn that the travelled road had originally been given by the proprietors of these lots in place of the original allowance without compensation, and two patents were put in, issued in 1803, which apparently included such allowance; while on the part of the corporation it was alleged that such road had been opened by the then proprietors of these lots for their own convenience merely; that it was too narrow, on low ground, and insufficient for the the public convenience, for which the original allowance was required; and that the corporation, though frequently applied to, had always