

ROSE, J.]

[March 31.

BRILLINGER v. AMBLER.

*Landlord and tenant—Distress for rent—Set-off—Notice—Illegal distress—Double value—R.S.O., c. 143, s. 29—2 W. & M., sess. 1, c. 5, s. 5.*

Where, after goods of the tenant had been seized by the landlord as a distress for rent, a notice of set-off was given by the tenant, pursuant to R.S.O., c. 143, s. 29, but the landlord continued in possession and sold the goods.

*Held*, in an action for illegal distress, in which it was found that the tenant was entitled to set off a debt in excess of the rent due, that he was not entitled to recover double of the value of the goods under 2 W. & M., sess. 1, c. 5, s. 5; for, under that enactment, the seizure must be unlawful as well as the sale; and here the distress when made was not unlawful, the landlord becoming a trespasser only when he remained in possession after the notice.

*Strathy, Q.C.*, for the plaintiff.

*H. Lennox*, for the defendant.

FERGUSON, J.]

[April 2.

WIGLE v. VILLAGE OF KINGSVILLE.

*Municipal corporations—Contract—Necessity for by-law—Resolution of council—Consolidated Municipal Act, 1892, ss. 281, 282.*

A by-law of a village corporation authorized the raising, by way of loan, of a certain sum for the purpose of mining and supplying the village with natural gas, and the issue of debentures therefor.

*Held*, having regard to s. 282 of the Consolidated Municipal Act, 1892, that a by-law was necessary to authorize the making of a contract for the mining work to be done, and that this by-law did not authorize it.

*Held*, also, that a resolution of the council, though entered in the minute book and containing the contract at full length, and having the seal of the corporation attached to it, could not be considered a by-law because it was not signed as required by s. 288.

*E. S. Wigle*, for the plaintiff.

*A. H. Clarke*, for the defendants.

ROSE, J.]

[April 5.

LEYBURN v. KNOKE.

*Notice of trial—Jury sittings—Non-jury sittings—Default—Judicature Act, 1895, s. 88—Rule 647.*

Where an action is to be tried without a jury, and two spring or autumn sittings have been appointed at the place of trial, one for the trial of actions with a jury, and the other without a jury, the plaintiff, although by s. 88 of the Judicature Act, 1895, he can have his action tried at the jury sittings, is not in default under Rule 647 by reason of his not giving notice of trial therefor, where the non-jury sittings, for which he intends to give notice of trial, is to be held at a later date.

*D. L. McCarthy*, for the plaintiff.

*R. Hodge*, for the defendant.