zure, and if it was, the sheriff was estopped by his return to the writ from raising the question.

Held, also, that the fact of plaintiff's solicitor acting as attorney for S. in a suit connected with the same goods was not evidence of an intention to discontinue proceedings under the attachment.

Russell, for the appellants.

Gormully, for the respondent.

Nova Scotia.]

CASSELS v. BURNS.

Ships and shipping—Charter party—Damage to ship—Nearest port—Deviation.

A ship sailed from Liverpool in September under charter to load lumber at Bathurst, N.B. Having encountered heavy weather the captain found it necessary to make repairs, and proceeded to St. John for that purpose. By the time the repairs were completed it was too late to go to Bathurst and carry out the charter. In an action against the owners for breach of charter the plaintiff obtained a verdict, the jury finding that the repairs could have been made in Sydney, C.B., and if made there could have been completed in time to load at Bathurst.

Held, affirming the judgment of the Court below, (20 N. S. Rep. 13) that going to St. John to repair the ship was such an unnecessary deviation from the voyage as to render the owners liable for breach of charter party.

Skinner, Q.C., for the appellants.

W. Pugsley, for the respondents.

Nova Scotia.]

ELLS v. BLACK.

Trespass—Disturbing enjoyment of right of way—User—Easement.

E. and B. owned adjoining lots, each deriving his title from S. E. brought an action of trespass against B. for disturbing his enjoyment of a right of way between said lots and for damages. The fee in the right of way was in S., but E. founded his claim on a user of the way by himself and his predecessors in title for upwards of fifty years. The evidence on the trial showed that it had been used in common by the successive owners of the two lots.

Held, affirming the judgment of the Court below, (19 N. S. Rep. 222) Ritchie, C. J., and Gwynne, J., dissenting, that as E. had no grant or conveyance of the right of way, and had not proved an exclusive user, he could not maintain his action.

Sedgewick, Q.C., for the appellant.

Drysdale, for the respondent.

MOONEY v. MCINTOSH.

Trespass—Title to land—Boundaries—Easement—Agreement at trial—Estoppel.

In an action for damages by trespass by McI. on M.'s land and closing ancient lights, defendant claimed title in himself, and pleaded that a conventional line between his lot and the plaintiff's had been agreed to by a predecessor of the plaintiff in title. On the trial the parties agreed to strike out of the pleadings all reference to lights and drains, and to try the question of boundary only.

Held, affirming the judgment of the Court below, Ritchie, C. J., and Gwynne, J., dissenting, that independently of the conventional boundary claimed by the defendant, the weight of evidence was in favor of establishing a title to the land in question in the defendant, and the plaintiff could not recover, and that by the agreement at the trial the plaintiff could not claim to recover by virtue of a user of the land for over twenty years.

Semble, that if it was open to him, such user was not proved.

Sedgewick, Q.C., for the appellants.

Henry, Q.C., for the respondents.

Ontario.]

EXCHANGE BANK v. SPRINGER.

Surety—Cashier of Bank—Buying and selling stocks—Negligence of Directors.

In an action against the sureties of an absconding cashier it appeared that the bank had become possessed of certain stock on the security of which advances had been made, and to save loss the stock was put on the market and other stock bought to affect the