upon the land and made improvements upon it, which increased its value to more than $200.

Held, that the "subject matter involved" in the suit was more than $200, and that the plaintiff was therefore entitled to costs according to the higher scale.

[February 15, 1876—Taylor, Master.]

The bill in this suit was for specific performance of an agreement, whereby defendant agreed to sell to plaintiff a certain parcel of land for less than $150. After the agreement, and before bill was filed, plaintiff entered upon the land and erected a house upon it, which increased the value of the land to more than $200. Decree was for specific performance, and contained a reference to the Master, to inquire how much was due to defendant, and directed defendant to pay to the plaintiff his costs of suit. The Master found that the amount due was less than $200.

Hoyles, for defendant, contended that under the above circumstances plaintiff was only entitled to costs upon the lower scale.

J. S. Ewart, for plaintiff, contended that the value of the land, together with the building, was the test.

Taylor, M.—The plaintiff seems entitled to have his costs taxed upon the higher scale. What is "the subject matter involved?" The land as it stood at the date of filing the bill. It is true that the purchase money agreed to be paid for it, when bought some years before, was less than $200; but in the meantime improvements have been made, and the value of these added to the land, make it of greater value than the $200. These are all involved in the present suit.

NOTES OF CASES

IN THE ONTARIO COURTS, PUBLISHED IN ADVANCE, BY ORDER OF THE LAW SOCIETY.

QUEEN'S BENCH.

HILARY TERM, 1876.

Stubbs v. Johnston.

(March 17.)

Contract—Construction.

Action on agreement, whereby plaintiff agreed to cut, &c., a certain number of standard logs on 1,800 acres of land mentioned in a schedule to the agreement, for specified prices, which agreement, after other provision as to building roads, etc, concluded, "the defendants to provide the pine timber which is to be cut on the lots mentioned," &c. Breach, that the defendants did not provide the pine logs or make roads, &c. Second count for money payable for logs cut, &c.

Held, that under the terms of the contract the defendants were not bound to point out the trees to be cut on the land; that the word "provide" applied to the lots of land.

The jury having found that the plaintiff was overpaid $100 for the trees actually cut, and $10 in his favour as damages for breach of contract in defendants not building certain roads, and a verdict having been entered at *nisi prius* for the defendants, *held*, also, that the plaintiff was entitled to a verdict of $10 on the count for the breach.

J. K. Kerr for plaintiff.

Osler for defendants.

Spooner et al. v. Western Assurance Co.

(March 17.)

Marine Insurance—Average—Deck-load.

Special case. Plaintiffs owned the vessel "Canadian," insured with defendants against perils of navigation, the policy containing no exceptions as to deck-loads. On the 19th September, 1873, the plaintiffs' agent undertook to carry a full hold and deck-load of coal from C. to T.; the bill of lading contained the words "*all property on deck at the risk of the vessel and owners.*" The vessel went ashore on the voyage between C. and T., and was got off by a tug after the deck load was thrown overboard. The case stated that the usage of vessels on this route was to carry deck loads, and that the jettison of the deck-load was made to save the vessel and the rest of the cargo. A statement of general average having been made, the plaintiffs insisted that defendants must contribute.

Held, though with some doubt, that under the special terms of the bill of lading, quoted in italics, the defendants were not liable; but for these terms, the decision might have been otherwise.

Remarks on the propriety of placing such a contract beyond doubt by clear and unambiguous language.

McMichael for plaintiff.

Bethune for defendant.

Ætna Insurance Company v. Green.

(March 17.)

Insurance—Agent—Payment.

One B., plaintiffs' agent, effected an insurance on the life of defendant, who was in charge of a branch of the City Bank. B. had overdrawn his account at this branch, and when defendant