HOWARTH *v.* KILGOUR.

Defamation — Publication on privilegea occasion—Malice.

The plaintiff and one S. had been in partnership, S. having retired from the firm and left the country. Subsequently the plaintiff made an assignment for the benefit of his creditors. The defendant was a creditor and was appointed one of the inspectors of the estate. S. wrote a letter to one F. relative to the plaintiff's business, which the plaintiff claimed to be libellous, which F. forwarded to the defendant, who showed it to his co-inspector, to another creditor, and to the plaintiff's late book-keeper. In an action against the defendant for the publication,

Held, that the occasion of the publication was privileged, the letter being only shown to persons equally interested with the defendant in the matter, and being so privileged the onus was on the plaintiff to show malice, if any.

Denovan for the plaintiff.

Wallace Nesbitt and *J. R. Roaf*, contra.

BRYDGES *v.* HAMILTON ROLLING MILLS CO.

Master and servant—Accident– Workmen's Compensation for Injuries Act — Defect in machine—Contributory negligence.

A bolt was used for holding the lower blade of a pair of shears to an iron block called the bed plate, some eight inches thick, upon which the iron or steel to be cut was put, and along the face thereof, where the workman stood, there was a guard about three inches high, under which the iron was put to be cut by the shears, the only danger being when the iron became too short to cause the guard to be any protection. The bolt was too long, projecting outwards about 4½ inches, but there was no evidence to show that it was insufficient for the purpose for which it was used, nor likely to cause injury by reason of its length. The plaintiff, who had previously seen others working at the machine, was put to work at it himself, and had worked at it several times prior to the accident without any injury or apparent fear of any. When the accident happened he was feeding the machine with scrap iron, and a piece becoming too short to hold outside the guard, he held it down by another piece, and while doing so his fingers got jambed and crushed. Evidence was given that the accident could have been avoided by the use of tongs. No instructions were given the plaintiff except being warned not to let his fingers get too close to the shears.

Held, that no defect in the machine was proved, nor any negligence on the defendants part shown, and therefore the defendants were not liable for the injury sustained by the plaintiff.

Quære, whether the plaintiff was guilty of contributory negligence.

Bicknell for the plaintiff.

Wallace Nesbitt for the defendants.

HOWARD *v.* CORPORATION OF ST. THOMAS ET AL.

Municipal corporation — House being moved coming in contact with telephone wire across street, loosening bricks and injuring passer-by.

O. was moving a house, twenty-five feet high, along one of the streets in the city of S., having obtained the authority of the city engineer to do so, when by reason of its coming into contact with a wire, the existence of which O. was fully aware of, stretched by a telephone company, without any authority from the city, across the street, the wire being 19½ feet high, though the company's Act of Incorporation required it to be at least 22 feet, the wire was torn from its fastenings, loosening some bricks, which fell on the plaintiff, a passer-by, and injured him.

Held, that no liability attached either on the city or the telephone company, and that O. was alone liable for the injury sustained by the plaintiff.

W. R. Meredith, Q.C., for plaintiff.

Ermatinger, Q.C., for St. Thomas.

C. Macdougall, Q.C., for defendant Oliver.

Lash, Q.C., and *S. G. Wood*, for Telephone Co.

BOYD, C.] [June 5.

BOYD *v.* JOHNSTON.

Vendor and purchaser—Land subject to mortgage—Liability of purchaser to pay off mortgage.

A purchaser of an equity of redemption is bound as between himself and his vendor to pay