

defendant pleaded *not guilty*; and Wray, C. J., laid it down, that being delivered but as a story, and not with any malice or intention to slander any, he was not guilty of the words maliciously. (2 Cro. 91; 1 Roll. 87.)

John Walter, Knight, Lord Chief Baron, a profound learned man, and of great integrity and courage, being Lord Chief Baron by patent *Primo Caroli quamdiu se bene gesserit*, fell into the king's displeasure, and being commanded to forbear the exercising of his judicial place in court, never did exercise from the beginning of Michaelmas Term quinti Caroli, until he died, viz., the 18th of November, 1630. But because he had that office *quamdiu se bene gesserit*, he would not leave his place, nor surrender his patent without a *scire facias* to show what cause there was to determine or forfeit it, so that he continued Chief Baron until the day of his death. (Cro. Car. 203.)

Jacob Hale, the famous rope-dancer, had erected a stage in Lincoln's Inn Fields: but upon petition from the inhabitants, there was an inhibition from Whitehall. And upon complaint to the judges that he had erected one at Charing Cross, he was sent for into Court, and the Chief Justice told him he understood it was a nuisance to the parish; and some of the inhabitants being in court, said it occasioned broils and fightings, and drew so many rogues to that place that they lost things out of their shops every afternoon. Hales said, that in 8 Car. 1, Noy prayed a writ to prohibit a bowling-alley erected near St. Dunstan's Church, and had it. (1 Mod. 76; and see 2 Keb. 846.)

One Cox was confined *ad curiam visus*, *Franc. plegii et barons*, because he put on his hat in the presence and in contempt of the Court of the Lord, and said, "he cared not what he could do," and hindered the business of the Court *incivili*; *se gerens*. (1 Keb. 451 and 465.)—*Monthly Law Reporter*.

## DIVISION COURTS.

### TO CORRESPONDENTS.

All Communications on the subject of Division Courts, or having any relation to Division Courts, are in future to be addressed to "The Editors of the Law Journal, Barrister at Law Office."

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## DIVISION COURTS.

We regret that, owing to the indisposition of the gentleman engaged in the compilation of the "Division Court Manual," we are without copy for publication in this number. We hope in our next issue to make up for lost time.

## UPPER CANADA REPORTS.

### QUEEN'S BENCH.

Reported by C. ROBINSON, Esq., Barrister-at-Law, Reporter to the Court.

### HOLCOMB ET AL. V. SHAW.

Taxes—Collection of after return of collector's roll—Pleading—Consol. Stats. U. C., ch. 55, sec. 24, 90, 103, 104, 110, 111, 112.

After the collector's roll for the year has been formally returned the municipality cannot appoint any one to collect the unpaid taxes by distress; their collection belongs to the treasurer.

In an action of replevin the defendant avowed, setting out the assessment of certain taxes in the city of Kingston for the year 1855 and 1859, the delivery of the collector's rolls to the collector for those years, and their return by him, with the taxes hereinafter mentioned appearing unpaid, that he, the defendant, was duly appointed by resolution of the council, instead of the collector for those years, to collect certain taxes remaining unpaid after the return of said rolls: that certain persons named were set down and assessed on said rolls as owner and occupant of certain real property for a sum mentioned, payment of which was duly demanded by the collector of those years: and that at the said time

when, &c., (being in 1861.) the defendant took the goods in question as a distress for such taxes, the same being in the plaintiff's possession on the premises so assessed. *Held*, on demurrer, that the avowry showed no defence, the council having under the circumstances no authority to make such appointment.

The plaintiffs in answer to the avowry pleaded several pleas denying the assessment of the several parties as alleged, to which the defendant replied, so far as it might be intended to rely on any error in said assessments, that the collector's rolls for said years were made out by the clerk from the assessment rolls as finally passed, and the assessments in question correctly transcribed. *Held*, on demurrer, replication bad.

Replevin, for an iron safe, office chairs and tables, &c., alleged to have been taken by the defendant on certain premises known as the Marine Railway Wharf and Stores, situated at the foot of Gore and Earl streets, in the City of Kingston. Writ issued on the 4th December, 1861.

Avowry, that in the year 1855 the assessed yearly value of the whole ratable real and personal property, in the municipality of the city of Kingston, after the final revision of the assessments for the said year, 1855, was £77,000, and in the same year 1855, the mayor, aldermen, and commonalty (now the council of the corporation) of the city of Kingston, in council assembled, passed a by-law, sealed with the seal of the said municipal corporation, and signed by O. S. Gildersleeve, mayor, and head of the said corporation, who presided at the meeting of the said council at which the said by-law was passed, and by M. Flanagan, clerk of the said municipal corporation, authorising the raising of certain sums of money for the lawful purposes of the said municipality by the levying and collection in the said year, 1855, of certain rates therefor, as follows, namely, &c., (specifying the sums required for different purposes and respective rates therefor,) and also in the said year, 1855, the mayor, aldermen and commonalty (now the council of the corporation) of the said city of Kingston in council assembled, passed another by-law, sealed, &c., as before, and authorising the levying and collection in the said year, 1855, of a certain other rate of seven pence in the pound upon the said assessed yearly value to raise the sum estimated and required by the board of common school trustees of the said city of Kingston, in the said year, 1855, to be provided by the said mayor, aldermen, and commonalty of the city of Kingston, for the said year, 1855, the said several rates so authorised to be levied and collected in and for the said year, 1855, being together equal to 3s. 2d. in the pound, on the said assessed yearly value of £77,000.

And the defendant avers that in the year 1859 the assessed yearly value of the whole ratable real and personal property in the said municipality of the city of Kingston, after the final revision of the assessments for the said year, 1859, was \$315,135, and in the said year, 1859, the mayor, aldermen, and commonalty (now the council of the corporation) of the said city of Kingston in council assembled passed a by-law, sealed, &c., and authorising the raising of certain sums of money for the lawful purposes of the said municipality by the levying and collection in the said year, 1859, of certain rates therefor, as follows, namely, &c., (specifying as before,) being together equal to nineteen and three quarter cents in the dollar upon the said yearly assessed value of \$315,130.

And the defendant further avers that the clerk of the said municipality of the said city of Kingston for the said years 1855 and 1859, made out collector's rolls, as required by the assessment laws in force in the said years in Upper Canada, for each ward in the said city in each of the said years for the collection of the said rates, in accordance with and founded upon the said several by-laws in that behalf, which rolls were duly delivered to the collector for the said respective years, and returned by said collector as required by law, the taxes hereinafter mentioned appearing in the said rolls for the said years for Sydenham ward, in the said city of Kingston, on the return thereof as remaining unpaid: and the defendant further avers that at the said time when, &c., he was a collector duly and by a resolution in that behalf of the said council of the said municipality appointed by said council instead of the collector for the said respective years, to collect certain taxes remaining after the said return of said rolls unpaid, and amongst others the collector's rolls for Sydenham ward, for the said years 1855 and 1859, were delivered to the defendant, that he, the defendant, might collect the taxes remaining unpaid therein from the person or persons who ought to pay the same, which unpaid taxes in said rolls for said Sydenham ward for the said years 1855 and 1859, included and contained the taxes hereinafter