

STAVING PROCEEDINGS:—Continued.	PAGE
one, and may be cured by enlargement of the application and the entry of appearance. McNaughton & Dobson	315

—See Trespass.

TAX SALE.—*Action for not executing deed.*—A statute authorizing the sale of land for taxes, provided that the deeds “shall be executed by the reeve and treasurer, and under the seals of the municipalities respectively.” In an action against a municipality for refusal to execute a deed, *Held*, (Killam, J., diss, and affirming Dubuc, J.) That the action would not lie, for the deed ought to be executed by the reeve and treasurer and not by the municipality. *McLellan v. The Municipality of Assiniboia.* 127

—*Injunction.*—*Appeal to Court of Revision.*—An injunction may be granted to restrain a tax sale. The limits of such jurisdiction discussed. It is not necessary that exemption from taxation should be raised before the Court of revision, and the party wrongly assessed is not stopped by not taking that step. *Canadian Pacific Railway Co. v. Calgary* 37

TAXATION. See Costs.

TRIAL.—*Judge's Charge.* See Trespass.

TRESPASS AND TROVER.—*Exemplary damages.*—*Audita Querela.*—*Certificate for costs.*—*Court ascertaining damages.*—Plaintiff and the defendant Babington both claimed the ownership of a crop of wheat, the plaintiff as being tenant of Babington, and Babington on the ground that the lease had expired. The question was whether the oral agreement between the parties was for one or five years. The defendant had cut and stacked eight stacks, but had not interfered with the rest of the wheat, which was cut and put up by the plaintiffs in six sacks. The plaintiff had a verdict of \$650. Upon a motion for a new trial, *Held*, 1. That the charge was not erroneous because the judge refused to tell the jury that it was for the plaintiff to make out every part of the agreement, and not merely that part of it which he required for this case. 2. That the judge was correct in telling the jury that if they found a verdict for the plaintiff they were not limited in estimating damages to the actual pecuniary loss, but could allow exemplary damages in addition; that it was not necessary, under the circumstances, to point out the distinction between a *bona fide* assertion of right and a wanton trespass. 3. That it was not necessary for the judge to tell the jury that if their verdict was in trespass the damage would be calculated with reference to the whole crop, while, if in trover, it would be limited to the part converted. The jury could not well have erred upon that point. 4. Some damage had occurred because of the occurrence of a hail storm while a portion of the wheat was uncut. For this the defendants were not liable, and the damages were reduced by \$200, the amount estimated by the Court as attribut-