not assume that the debt represented by the note must be deemed to be paid, and the remedy on the note to be alone looked to; and therefore the amount of the indebtedness on the mortgage could not be said to be untruly stated.

MacKelcan, Q.C., for the plaintiff.

Walker (of Hamilton), for the defendant.

REG EX REL. STEWART V. STANDISH.

Public schools—Trustee—Contract—Vacating seat.

When a school trustee, who was a medical practitioner, acted on his professional capacity under engagement by the Board in examining the pupils attending the school as to the prevalence of an infectious disease, and made a charge of $15 therefor, which the Board ordered to be paid.

Held, that this disqualified him as such trustee, and rendered his seat vacant.

A rule for leave to exhibit an information in the nature of a *quo warranto* to test defendant's right to retain his seat was decided to be made absolute without costs, unless within ten days the defendant should admit he had forfeited his seat, and consent to the board declaring it vacant, in which case the rule was to be discharged without costs.

Alister Clark, for the applicant.

Caswell, for the respondent.

WALTON V. SIMPSON.

Contract—Fraud—Waiver—Finding of jury.

A contract induced by fraud is not void, but voidable, merely at the option of the party affected or prejudiced thereby; and when the party affected adopts the contract induced by fraud, the discovery of a new incident of the fraud does not revive the right to repudiate.

In this case, there being no finding by the jury that the defendant had knowledge of and had waived the fraud, a new trial was directed.

Bethune, Q.C., for the plaintiff.

Akers, contra.

TUCKETT V. EATON.

Seizure after payment of debt—Malice—Damages excessive.

After the amount of a judgment recovered in a Division Court had been paid, the plaintiff's goods were seized by the Division Court bailiff under an execution issued thereon. In an action for such seizure the jury found for the plaintiff with $1,500 damages.

Held, under the circumstances set out in the case, the damages were clearly excessive.

Held, also, that the action would not lie without proof of malice, and that no malice was shown.

Osler, Q.C., for the plaintiff.

Shepley, for the defendant.

LANDREVILLE V. GOUIN.

Accident—Snow and ice falling from roof of house—Liability—Notice.

In an action for damages sustained by the plaintiff, who was walking along the street, by reason of snow and ice falling from the roof of the defendant's house and injuring him, it appeared that about half an hour before the accident happened the defendant was notified of the dangerous character of the roof, but took no precautions to prevent an accident.

Held, Rose, J., dissenting, that the defendant was liable.

Hector Cameron, Q.C., and *Frank Macdougall*, for the plaintiff.

McCarthy, Q.C., for the defendant.

MCCLURE V. KREUTZEGER.

Sale of goods—Acceptance—Quantum meruit.

The defendant purchased from the plaintiff a carload of "No. 1 green hoops," to be delivered at the railway station. On the arrival at the station they were removed by the defendant to his own place, and some of the hoops were used by him. He then wrote to the plaintiff that he was astonished at his sending such dry and rotten hoops for first-class green hoops and if he had seen them before they were at his place, he would not have touched them; that there were only 7,300 in the car instead of 7,400, as stated by plaintiff; that he enclosed a bill which was the amount he intended to pay, and not a cent more, because they were not worth that; and if plaintiff would accept the amount offered, to let defendant know by return mail and he would remit. In answer to this the plaintiff, through a solicitor, threatened