

à la défenderesse, qu'elle lui fut endettée, ni fourni un compte contre elle personnellement, accorde au demandeur la dite somme de douze piastres, sans frais, et déboute l'action quant au surplus.

"Et la Cour considérant, en fait, que la défenderesse, lors de l'action et de la saisie-arrêt, et longtemps avant, ne possédait aucuns biens et les avait vendus, à la connaissance du demandeur, à des créanciers antérieurs et privilégiés, pour s'acquitter envers eux de plus forte somme ;

"Considérant que le demandeur était mal fondé à déclarer que la défenderesse recelait et était sur le point de receler ses biens et de laisser incontinent la Province de Québec ;

"Considérant que la défenderesse a fait preuve de la fausseté des allégations de recel et de fuite faites par le demandeur dans son affidavit pour obtenir le bref de saisie-arrêt, et que la défenderesse a justifié sa requête pour annuler la saisie-arrêt ;

"Considérant que le demandeur a procédé par saisie-arrêt, sans cause et dans le but de harasser la défenderesse, et qu'il lui a causé trouble et dommage par cette procédure, vexatoire, déboute la dite saisie-arrêt, et maintient la requête de la dite défenderesse pour annulation d'icelle saisie avec dépens distraits à M. J. E. Robidoux, avocat de la défenderesse ;

"Considérant que sous les circonstances, la défenderesse ne doit pas être condamnée aux frais pour et à raison de la somme et dette allouée au demandeur ;

"Considérant qu'il est juste, pour empêcher litigation ultérieure, de compenser la dette et condamnation de douze piastres au profit du demandeur, avec les frais que ce dernier est condamné à payer à la défenderesse et qu'il lui doit, la Cour prononce la dite compensation et déclare que le demandeur paiera les frais accrus au profit de la défenderesse sur sa requête ; moins cependant les douze piastres représentant la dette que lui doit cette dernière."

Barnard & Co. for plaintiff.

J. E. Robidoux for defendant.

NEW PUBLICATION.

We acknowledge receipt of a copy of Stephens' "Law and Practice of Joint Stock Companies," (Carswell & Co., Toronto), which will be noticed hereafter.

SALVAGE OF SPECIE.

No maxim perhaps is more frequently insisted on than that which forbids a judge to decide more than is necessary for the case in hand. At the same time none is more difficult to adhere to, and the judgments even of our best judges abound in *obiter dicta*. A curious instance of this arose a few days ago in the Admiralty Division in the case of *The Longford*. This vessel had the misfortune to get into a collision in the river Mersey, and, being obliged to accept assistance, was subsequently sued for salvage services rendered. At the time of the services she had on board a clerk of the Bank of Ireland with £50,000 in specie in his possession, and its owners contended at the trial that, as, even if the ship had sunk at once before the arrival of assistance, the gold could have been easily recovered by divers, it ought not to contribute to the salvage award in the same proportion as the ship and the rest of the cargo.

The earliest reported case of this character is *The Jonge Bastiaen*, 5 C. Rob. 322, which was decided in 1804. In that case there was first an unsuccessful attempt to save the vessel by a single smack, at the end of which the master left the vessel in the smack, taking with him a quantity of bullion, and a second successful attempt by six smacks. At the trial it was contended that the bullion should not contribute, but Sir W. Scott (Lord Stowell) overruled the objection. The next reported case in which the principle of making separate allotments on the ship and on the cargo seems to have been discussed is *The Vesta*, 2 Hagg. 193, which came before Sir C. Robinson in 1828, and there that learned Judge distinctly says, "The principle of giving specific proportions of the property saved is an inconvenient rule in itself," and "I do not approve the distinction ;" and he gives as his grounds "that the difference of danger to which the property is exposed would be a most difficult criterion to be applied in most cases," and that "to uphold such a notion would lead to preferences in saving one part of a cargo before another." It is true that in this case no part of the cargo was silver or bullion, but it cannot be said that the subject was not present to his mind, for in the course of his judgment he incidentally remarks : "Suppose, for instance, a casket of jewels on board which might be saved with great facility ; it could not