BARKER, J.
Equity Chambers. }   [Aug. 27.

GAULT *v.* YOUNGCLAUS.

Practice—Setting cause down for hearing—Clerk's certificate.

On an application by the plaintiff to set the cause down for hearing, an affidavit by the plaintiff's solicitor of the state of cause is sufficient without the clerk's certificate.

A. O. Earle, Q.C., for the plaintiff.
C. A. Stockton, for the defendant.

McLEOD, J.
In Chambers. }   [Aug. 30.

EX PARTE WILLIAM G. ABELL.

Liquor License Act, 1887—First offence—Appeal—Commitment.

The prisoner was convicted of a first offence for selling liquor without license and fined $50 and costs, and in default of payment ordered to be committed. On appeal the conviction was affirmed by the Judge of the Saint John County Court, and a warrant under s. 118, sub-sec. 5, was issued, committing the prisoners to gaol for default in paying the fine. On an application for a writ of habeas corpus,

Held, that the power conferred on a reviewing judge under the above section relates to a conviction for a third offence, and that the prisoner should be discharged.

W. B. Wallace, for the prisoner.
L. A. Currey, Q.C., contra.

Province of British Columbia.

SUPREME COURT.

DAVIE, C.J.]   [July 27.

GORDON *v.* CITY OF VICTORIA.

Liability of municipality for damages arising out of injuries incurred through non-repair of highway.

Motion by the plaintiff for judgment on the findings of the jury at the trial. The action was brought by a widow to recover damages against the city of Victoria and the Consolidated Railway Company on account of the death of her husband on 26th May, 1896.

On the day in question, a holiday, the deceased was a passenger on a densely crowded street car going to a naval review being held in the neighborhood of Esquimalt, to which place the company ran cars from Victoria, passing over on the way the Point Ellice Bridge, which was within the city limits. It was a truss bridge, containing two spans, and upon the car reaching the first span the bridge collapsed and the car plunged into the water below and fifty