

C.P.D.]

[Nov. 14.]

MASON v. TOWN OF PETERBOROUGH.

Revivor—Actio personalis—Damages—Negligence—Executors—R.S.O., c. 110, s. 9.

When the plaintiff in an action to recover damages for injuries sustained by him by reason of the negligence of the defendants dies from his injuries after a trial, at which there has been a disagreement of the jury, his executors may enter a suggestion of the death and obtain an order of revivor and proceed with the action. It is not necessary under R.S.O., c. 110, s. 9, to bring an entirely new action.

Judgment of the Common Pleas Division affirmed.

Moss, Q.C., and *Edwards* for the appellants.

D. W. Dumble for the respondents.

Q.B.D.]

[Nov. 21.]

YOUNG v. SAYLOR.

Contempt of court—Justice of the Peace.

This was an appeal by the defendant from the judgment of the Queen's Bench Division, reported 23 O.R. 513, and was argued before HAGARTY, C.J.O. BOYD, C., and OSLER and MACLENNAN, JJ.A., on the 21st of November, 1893.

At the conclusion of the argument the appeal was dismissed with costs, the court holding that a Justice of the Peace has not absolute immunity under the facts set up in this case, and that the action was properly sent back to be fully tried.

Clute, Q.C., for the appellant.

Ayelsworth, Q.C., for the respondent.

C.C. Simcoe.]

[Nov. 17.]

BREITHAUPT v. MARR.

Creditors' Relief Act—Assignment for the benefit of creditors—Executions—R.S.O., c. 65.

Creditors whose executions or certificates under the Creditors' Relief Act are placed in the sheriff's hands after the execution debtor has made a general assignment for the benefit of his creditors are not entitled to share under that Act in the proceeds of goods seized by the sheriff under prior executions before the assignment was made, the proceeds being insufficient to pay these prior executions.

Roach v. McLachlan, 19 A.R. 496, applied.

Judgment of the County Court of Simcoe reversed.

Moss, Q.C., and *Pepler, Q.C.*, for the appellants.

W. N. Miller, Q.C., for the respondents.