

District of Muskoka, no notice having been given as required by 48 Vic. ch. 14; sec. 1 (O.), amending sec. 14 of 43 Vic. ch. 8 (O.), disputing the jurisdiction of said Court; and that in any case prohibition would not lie in this case, the title to the road, upon which the injury complained of arose, not being in question, the road being a colonization road built by the government before the organization of the townships of Medora and Wood as a municipality, and the question arising not being one of title but of liability to keep in repair a road so built.

Per WILSON, C. J.—The road in question was a colonization road vested in "the Crown or in a public department or board," and which had not been renounced by proclamation, and the municipality were not bound to repair it.

The case was tried before the Division Court Judge, who gave his decision in favor of the plaintiff, but formally reserved the giving of judgment to a subsequent day, to enable the defendants to move for prohibition or certiorari. In the meantime the defendants gave the required notice.

Held, that the defendants could not thus wait and take the chances of a decision in their favor, and finding it adverse, apply for a writ of certiorari and probably obtain it.

Black v. Wesley, 8 U. C. L. J. 277; *Gallagher v. Bathie*, 2 U. C. L. J. N. S. 73, and *Holmes v. Reeve*, 5 P. R. 58, followed. *In re Knight v. The United Townships of Medora and Wood*, 138.

PUBLIC WORKS.

1. *Public schools—Suspension of pupil for misconduct—Teacher—Trustees—Resolution passed in absence of parent interested—Mandamus—Malice.*—On the 3rd of December, 1884, a school teacher dismissed the plaintiff, a boy thirteen years of age, for disobedience, speaking impudently when questioned about it, and refusing to be punished for misconduct. The matter was brought before the trustees, and on 6th January they held a meeting and passed a resolution that the boy could return to school on his expressing regret for his misconduct. After the receipt of a solicitor's letter on behalf of the father, the trustees, on the 10th February, held another meeting and passed a resolution, that the boy could return to school after one day's suspension. On the 11th February another meeting of the trustees was held and a resolution passed reinstating the resolution of the 6th January. The father was not notified nor was he present at the meetings of the 6th January and 11th February; but he was notified of and was present at, the meeting of the 10th February. The boy returned to school, but relying on the resolution of the 10th February, made no apology, and remained there for several days, but was not interfered with by the teacher, who, however, would give him no instruction. In an action in the Division Court against the teacher and trustees for an alleged wrongful dismissal, the learned Judge dismissed the case against the teacher, but held the trustees liable.

Held, that the action must be dismissed against the trustees: that it was not their act, but that of the

PROVINCIAL SECRETARY.

See COMPANY, 1.