

Held, also, that that statute is applicable only to officers and persons fulfilling a public duty for anything done by them in the performance of it when it may be properly averred that the act was done maliciously and without reasonable and probable cause, and, therefore, not to actions for negligence in the doing of the act.

Held, lastly, that one of the defendants, who was pathmaster for the beat in which the culvert was situated, did not come within the protection of the statute as pathmaster because he was not employed as such in doing this work, but as a day labourer.

J. A. Robinson and Tremear for the plaintiff.

J. M. Glenn and James A. McLean for the defendants Brower, Luton, and Dickenson.

C. F. Maxwell for the defendants, the Tisdales.

Chancery Division.

Div'l Court.]

MCMULLEN *v.* VANNATTO ET AL.

[Feb. 15.]

Lessor and lessee—Notice of forfeiture—R.S.O., c. 142, s. 11, s-s. 1—Distress after ejectment brought—Effect of.

A notice of forfeiture under R.S.O., c. 142, s. 11, s-s. 1, given in the words: "You have broken the covenants as to cutting timber" in a lease, and claiming compensation.

Held, a sufficient notice.

After action of ejectment, brought for the forfeiture of the lease, the plaintiff (landlord) distrained for, and received, rent subsequently coming due.

Held, that such course did not *per se* set up the former tenancy (which ended on the election to forfeit manifested by the issue of the writ), but might be evidence of a new tenancy on the same terms from year to year—a question proper to be submitted to the jury.

F. E. Hodgins for the plaintiff.

W. R. Riddell for the defendants.

FALCONBRIDGE, J.]

SUMMERS *v.* BEARD.

[Feb. 13.]

Mechanics' lien—Registration of lien—Time for—Alterations to work subsequent to completion.

Appeal from the certificate of the Master in Ordinary in a mechanics' lien matter.

In this case a lien was claimed for certain steel work done on a building which had been completed by June 30th, 1893, excepting that it being found that certain bolts projected out of the walls too far the sewere required to be cut down, which was done between October 17th and October 25th, 1893. The lien was registered on November 17th, 1893.