

ent persons, and each registered a lien for his services on both the buildings against the contractor and against both the properties on which they worked, and against both the owners, each lien being for the amount of the whole wages claimed in respect of service as to both properties. All four joined in one action against the contractor and the two owners to enforce their liens.

Upon a summary application by the contractor the mechanics' liens and writ of summons were set aside.

*Allan McNabb*, for the plaintiff.

*W. Davidson*, for the defendant Barbour.

Boyd, C.]

[Sept. 19.]

DONEGAN *v.* SHORT.

*Arrest—Ca. re.—Breach of promise—Statement of damage—Corroboration—Discharge of defendant.*

In an action for breach of promise of marriage the defendant was arrested under a *ca. re.*, the order for which was granted upon an affidavit which did not swear to any amount of damage. Upon a motion to discharge the defendant from the custody of his bail, he denied the promise of his marriage, and the plaintiff filed no affidavit corroborating her own. The intent of the defendant to leave the country rested on alleged admissions made by the defendant to the plaintiff, which he denied, and he also brought forward a strong fact against his likelihood to abscond from the province.

*Held*, that under these circumstances the defendant should be discharged, and the bail bond delivered up to be cancelled.

*Middleton*, for the plaintiff.

*W. M. Douglas*, for the defendant.

Armour, C. J.]

[Sept. 20.]

*Re* ONTARIO FARMERS' SUPPLY CO. AND ONTARIO AND QUEBEC R. W. C.

*Railway—Land—Time—51 Vict. c. 29, s. 164 (D.).*

In the computation of the ten days' previous notice necessary to be given under 51 Vict. c. 29, s. 164 (D.), to obtain a warrant for the pos-

session of lands by a railway company, the day of the service of the notice, and the day upon which the application for the warrant is made, must both be excluded.

*McMurchy*, for the applicant.

*S. M. Jarvis*, contra.

Armour, C. J.]

[Sept. 21.]

WATERHOUSE *v.* McVEIGH.

*Arrest—Order for ca. sa.—Powers of County Court judge—Power of judge in court to rescind order.*

The judge of a County Court has no power, either as such judge or as local judge of the High Court, to order the issue of a *ca. sa.* in an action of the High Court.

*Cochrane Manufacturing Co. v. Lamon*, 11 P. R. 351, followed.

A judge of the High Court, sitting in "single court," has power to set aside an order of a county judge for a *ca. sa.*

*J. A. McCarthy*, for the plaintiff.

*Hewson and Plaxton*, for the defendant.

Rose, J.]

[Sept. 21.]

COLTER *v.* McPHERSON.

*Discovery Malicious prosecution—Investigation of transactions between plaintiff and a third person—Action for damages.*

The statement of claim set out two causes of action.

1. Falsely and maliciously, and without reasonable and probable cause preferring a charge of perjury.

2. Falsely, etc., preferring a charge of obtaining a valuable security by false pretences.

The defence averred that the plaintiff and one Jones conspired together to obtain two promissory notes from defendant by false pretences; that the plaintiff first visited the defendant, and by fraud and falsehood, induced him to enter into a contract to purchase certain hayforks, and that Jones followed him in course of time in pursuance of their fraudulent scheme, and by fraud and falsehood and false pretences obtained the notes.

*Held*, that upon examination of the plaintiff for discovery, the defendant should be per-