Surrogate Court prepare certain papers and documents to be used in said Court, to wit, the petition of one G., &c., describing the papers. Defendant pleaded that he did not practice in the profession of the law as an attorney for said G., or as such attorney prepare any papers or documents to be used in said Surrogate Court.

The evidence shewed that defendant prepared *gratuitously* for G., who was a widow in poor circumstances, the petition, bond, and affidavits required to enable her to obtain administration to her late husband.

Held, that the second plea was proved, and a verdict was therefore entered for defendant on the leave reserved.

Per *Draper, C. J. of Appeal*, and *Morrison, J.*, the evidence did not bring defendant within the spirit of the act or the mischief against which it was directed, which was the doing the acts prohibited *for profit.—Allen qui tam* v. *Jarvis*, 31 U. C. R. 56.

HIGHWAYS.

Held, on demurrer to the pleas set out below, that a municipality cannot, for the purpose of repairing or draining a highway, commit an injury to private property, by collecting and conveying water to it, and shelter themselves from liability under their statutable obligation to keep the road in repair:

Held, also, that a similar statutable duty of opening the road upon which they grew, was no answer to an action for injury caused to plaintiff's land by the felling of trees, accompanied by the allegation that in so opening the road a portion of the trees, in being cut and felled, necessarily reached to and fell upon plaintiff's land, but doing said land, &c., no unnecessary and no material injury, &c.—*Rowe* v. *Corporation of Rochester*, 22 C. P. 319.

INSOLVENCY.

Held, on exceptions to the plea set out below, that a deed of composition and discharge, made without any proceedings in insolvency (before or after), without any assignee being appointed, and apparently wholly outside the Insolvent Court, cannot be a bar to non-assenting creditors.—*Green* v. *Swan*, 23 C. P. 307.

SALE FOR TAXES

Under the 13 & 14 Vic. ch. 67, land was sold in 1852, for taxes of several years, including 1851, for which year the collector's roll had been returned to the treasurer, with his affidavit that the reason for not collecting the amount was that the land was non-resident. It was proved clearly, however, that from the 6th February, 1851, until long after the sale, the land had been occupied by defendant's father, who lived upon it with his family.

Held, that the sale was illegal.

It was objected also that there was no proof of want of distress on the land, nor of the advertisement of sale: that the affidavit of the collector was insufficient: that the assessment was not proved: that sections 45 and 46 of the Act had not been complied with: and that the sheriff did not sell that part of the lot most beneficial to the owner; but these objections, upon the evidence set out below, were overruled, except the last, which was not decided.—*Street* v. *Fogal*, 22 U. C. R. 119.

SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

NOTES OF NEW DECISIONS AND LEADING CASES.

MILITIA BAND INSTRUMENTS.

In replevin for certain instruments forming part of the band of a militia band, brought by the commanding officer, it appeared that the instruments had been purchased partly by money voted by the city corporation, partly by general subscription, and partly by donations of the officers and men of the battalion. Some difficulty having arisen amongst the officers, one defendant refused to give up the instrument, alleging his right to hold possession as being president of the band committee, and the other defendant acted with him.

Held, 1. That under sec. 48 of 27 Vic. ch. 3, the instruments became the property of the commanding officer, who might maintain replevin for them; and that this section, as to such property, was in no way controlled by section 47.

2. The defendants were not entitled to notice of action under 31 Vic. ch. 40 sec. 89, for that statute had no application; but that if it had there could be no right to such notice in replevin; and the finding of the jury, that defendants did not honestly believe that they had the power under the statute to do what they did, would also disentitle them to the notice.

3. Following *Deal* v. *Potter*, 26 U. C. R. 578, that the plaintiff was entitled to recover as damages the value of any of the goods which could not be replevied.—*Lewis* v. *Teale and McDonald*, 31 U. C. R. 108.

PROMISSORY NOTE—STAMPS—PLEADING.

To an action by payee against maker of a promissory note, the plea was that there was not affixed thereto, at time of making, an adhesive stamp, or stamps of the required