plaintiff's default in making payment of the secured debt or the interest or any part thereof.

Fifthly, the defendant sought at the trial to be permitted to set up and rely upon an alleged breach by the plaintiff of the condition against selling or attempting to sell the goods without the defendant's consent. The learned Chief Justice refused to allow the defence, being of opinion that the proof given in support of the alleged selling or attempting to sell was insufficient to support the charge, and there is no reason for differing with him.

Lastly, the defendant contended that the damages were excessive; but the sum awarded is quite reasonable under the circumstances. This is not a case of the mere issue of a writ of summons for an unfounded claim, and a seizure in good faith under the belief that the proceedings were proper. The defendant having through his own neglect allowed the time for renewal of his chattel mortgage to go by, and being irritated with the plaintiff's desire to rectify what he believed to be a mistake in the chattel mortgage, cast about for some method by which he could gain an advantage or put the defendant at a disadvantage. He adopted the plan of issuing a writ of summons for a money demand, and made that the pretext for seizing the goods under the chattel mortgage, and thereby put the plaintiff to considerable trouble, inconvenience, expense, and loss.

There is no ground for interfering with the adjudication as to damages or the costs of the action.

The judgment should be affirmed with costs.

OSLER, J.A., wrote a concurring opinion.

ARMOUR, C.J.O., expressed no opinion.

LISTER, J.A., died while the case was sub judice.

SEPTEMBER 19TH, 1902.

C. A.

RITCHIE v. VERMILLION MINING CO.

Company—Mining Company—Directors—Power to Sell Lands—Irregularity — Shareholders — Directors—Qualification—Injunction Restraining Sale.

Appeal by plaintiffs from judgment of STREET, J. (1 O. L. R. 654) dismissing action to restrain the defendant company from selling their mining lands, under the circumstances set out in the judgment below as reported.