

Province of Ontario.

HIGH COURT OF JUSTICE.

Rose, J.]

TODD v. LINKLATER.

[Dec. 27, 1900.

Mortgage—Power of sale—Payment of arrears—R.S.O. 1897 c. 126, sch. B, cl. 16—Acceleration.

The effect of the acceleration clause No. 16, sch. B, of the Act Respecting Short Forms of Mortgages, R.S.O. 1897 c. 126, is to give a right in every case to the mortgagor, his heirs and assigns to pay all arrears and lawful charges except when a judgment has been recovered.

The plaintiff as assignor of the mortgagor, was held entitled to restrain proceedings under the power of sale in the mortgages upon payment of arrears of interest and costs, the principal not being due except under the above acceleration clause.

Middleton, for motion. *Lennox*, contra.

This went to Divisional Court by way of appeal, and appeal dismissed with costs.

Falconbridge, C.J.]

MCKINNON v. MCTAGUE.

[Jan. 15.

Assessment and taxes—Notice or demand—Removal of goods from municipality—Magistrate's warrant for distress—"Good reason to believe"—Onus.

It is essential to the validity of a notice or demand under R.S.O. c. 224, s. 134 (1) that it should, as required by sub-s. (2), contain a schedule specifying the different rates, etc. The question whether the collector has such "good reason to believe" a ratepayer is about to remove his goods as would justify him in obtaining a magistrate's warrant of distress under s. 135 (4) is one for the judge or jury, the onus being upon the collector to prove that he had.

Held, under the circumstances of this case that he had not, and that the plaintiff was entitled to recover damages for illegal distress.

DuVernet and *W. J. Milligan*, for plaintiffs. *E. J. Beaumont*, for defendant *Patterson*. *W. D. Card*, for defendant *Gillies*.

Falconbridge, C.J., Street, J.]

[Jan. 17.

MARSHALL v. INDUSTRIAL EXHIBITION ASSOCIATION.

Negligence—Right to sell refreshments in Exhibition grounds—Lessee—Licensee—Platform—Highway—Keep in repair—Invitation.

The plaintiff purchased from an Exhibition Association the privilege of selling refreshments under a certain building, during the holding of the