

There is evidence that the mortgaged property, even if replaced in its former position, will be found much damaged and deteriorated by exposure and want of proper care. This is something which I cannot dispose of at present.

The plaintiff having come to the Court unable to perform a condition, fulfilment of which is necessary to entitle him to the relief he asks, should not expect a judgment more favourable than that which, following *Re Thuresson*, I feel bound to pronounce.

Judgment will, therefore, go dismissing this action with costs, unless within one month plaintiff brings into the office of the local Master at Perth, to whom there will be a reference for that purpose, evidence that he has put himself in a position, upon payment, to restore to defendant the mortgaged property, substantially as it was when plaintiff took possession. If plaintiff within one month satisfies the Master that he can fulfil this requirement, the Master will proceed to consider what allowance (if any) should be made in respect of deterioration or depreciation of the mortgaged property attributable to the dealing had with it for which plaintiff has been held responsible. The amount of such allowance, and the costs of this action, must then be deducted from plaintiff's claim as stated in the amended statement of claim (subject to the taxation by the said Master of the sum of \$107.96 claimed for costs of certain sale proceedings). The Master will report the balance due plaintiff after making the deductions above directed. Costs of the reference and further directions will be reserved.

CARTWRIGHT, MASTER.

NOVEMBER 8TH, 1904.

CHAMBERS.

CANADIAN INTERNATIONAL MERCANTILE
AGENCY v. INTERNATIONAL MERCANTILE
AGENCY.

*Security for Costs—Application for Payment out of Court—
Foreign Receiver.*

Motion by plaintiffs for an order requiring the receiver of defendants to give security for plaintiffs' costs of a motion made by the receiver for payment out of Court of \$860 which formerly stood to the credit of defendants in a bank,