

I think that the Attorney-General must be given an opportunity to state and if necessary to justify the stand taken now by the Crown. If he, upon being applied to by the plaintiff, states that the Crown does not desire to intervene, the case may be disposed of upon the evidence now before the Court without further argument; if he desires to be heard in argument, such argument may be heard on some day to be arranged; if he desires to cross-examine witnesses already heard and (or) adduce further witnesses, he may be made a party to the action, all proper amendments made in the pleadings, and the trial continued before Mr. Justice Latchford at some convenient time, the evidence already taken to stand.

In the meantime this motion will be retained.

FALCONBRIDGE, C.J., agreed, for reasons stated in writing.

BRITTON, J., (dissenting) was of opinion, for reasons stated in writing, that the appeal should be allowed and the action dismissed.

KELLY, J.

JULY 18TH, 1912.

NATIONAL TRUST CO. v. BRANTFORD STREET R.W. CO.

*Mortgage—Security for Bonds of Railway Company—Interest in Arrear—Acceleration of Payment of Principal—Action for Principal and Interest—Claim for Foreclosure and Possession—Payment of Interest pendente Lite—Right to Possession—Receiver—Breaches of Covenants—Default in Payment of Taxes—10 Edw. VII. ch. 51, sec. 6—Costs.*

A mortgage action, tried at Toronto, without a jury.

J. A. Paterson, K.C., for the plaintiffs.

S. C. Smoke, K.C., for the defendants.

KELLY, J.:—On the 1st July, 1902, the defendants the Brantford Street Railway Company executed to the plaintiffs an indenture by which the company granted, bargained, sold, transferred, set over, mortgaged, conveyed, and confirmed to the plaintiffs certain properties and assets for the purpose of secur-