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PRINCE EDWARD ISLAND.

SUPREME COURT.

FEBRUARY 13TH, 1911.

HORACE HASZARD v. R. H. STERNS ET AL.

*Distress for Rent—Pound Breach—Justification—Goods in
Custodia Legis—Distress.*

F. L. Haszard, K.C., and G. Gaudet, for plaintiff.

J. J. Johnston, K.C., and C. D. McCallum, for defend-
ants.

The judgment of the Court was delivered by

FITZGERALD, V.-C.:—This was an action for pound breach tried before me and a jury last term.

The jury under the charge found a distress, an impounding and a pound breach, assessing the damages at \$125, the value of the property rescued.

The rule nisi for a nonsuit, or in the alternative for a new trial was granted upon the following grounds:—

1. That at the time the alleged distress was made the tenancy between the plaintiff and his tenant Dr. E. E. Robins had terminated and distress could not be made.

2. That the first entry made by the plaintiff on the premises with the intention of taking possession of same was an eviction of the tenant and the right to distress ceased.

3. That the acceptance of the key by the plaintiff from the tenant's clerk or servant, was a surrender of the tenancy