

Full Court.]

[June 2.]

HOCKLEY v. GRAND TRUNK RY. CO.*Damages—Reduction—Consent—New trial—Rule 786—Quantum of damages.*

The Court of Appeal pronounced judgment April 4, 1905, dismissing the defendants' appeal except upon the question of damages. It was held that the damages assessed by the jury were excessive, and a new trial was ordered unless the plaintiff would consent to a reduction. The certificate of this judgment not having issued, the Court on the 2nd June, 1905, reconsidered the matter, and, acting under Rule 786, directed a new trial confined to the question of the amount of damages.

Held, following *Watt v. Watt* (1905) A.C. 115, that the Court has no jurisdiction, without the defendants' consent, to make the new trial dependent upon the consent of the plaintiff to reduce the damages.

Riddell, K.C., for defendants. *McCullough*, for plaintiff.

HIGH COURT OF JUSTICE.

Falconbridge, C.J.K.B., Britton, J., Anglin, J.] [May 11.]

RE DILLON AND VILLAGE OF CARDINAL.*Municipal corporations—By-law—Local option—Voting on by-law—Irregularities—Saving clause of statute.*

Upon an application to quash a local option by-law of a village approved by the electors by a vote of 124 to 117, it was alleged that in taking the vote the requirements of the Municipal Act had not been complied with, in that: (1) no newspaper was designated by the council whereon the by-law should be published; (2) one person was not appointed to attend the polling on behalf of those interested on each side; (3) persons were allowed to vote who were not so entitled; (4) no compartment was provided wherein a voter could mark his ballot, screened from observation; (5) other persons were present in the compartment with the voter; (6) other persons were allowed to be in a position to see how the voter marked his ballot; (7) persons were allowed to be in the polling place who were not entitled to be there; (8) the returning officer did not perform various duties required of him at and after the close of the poll. Some of the allegations were disproved in fact. As to matters which were proved:—