

which he has given, it may be observed that there is nothing here to shew—indeed the contrary appears—that the sum which the railway company are to pay is not considerably more than the school taxes which they would be liable to pay if they are not entitled to any exemption; so that, even if the general law were applicable, there has been no exemption in fact from the payment of school taxes.

One would think that the reasonable way in which to apply this by-law, if there was no power to relieve from school rates, would be to pay first the school rates out of the commuted sum, and then to apply the remainder, if any, in discharge of the general taxes.

The railway company and the corporation of St. Thomas seem to be satisfied. I do not think we ought to go out of our way to disturb what seems to be in the interests of both the city and the railway company.

Appeal dismissed with costs.

MAY 4TH, 1906.

DIVISIONAL COURT.

STONE v. BROOKS.

Illegal Distress—Damages—Violation of Agreement for Suspension—Trespass—Conversion—Measure of Damages—Seizure and Sale of Stock of Business—Interference with Business—Goodwill, Allowance for—Chattel Mortgage—Acceleration of Payment—Chattel Mortgagee Distraining as Landlord—Appropriation of Payments.

Appeal by defendant and cross-appeal by plaintiff from order of BOYD, C. (ante 463), on appeal by defendant from report of a referee assessing damages to plaintiff in an action for wrongfully distraining and selling when no rent was due, and also for wrongfully seizing and selling goods mortgaged by plaintiff to defendant at a time when defendant had no right to seize under the terms of the mortgage. The facts appear in the judgment of the Court of Appeal, 3 O. W. R. 527, directing a new trial. At the second trial the reference was directed. The referee assessed plaintiff's damages at \$1,548.94, and the Chancellor reduced the amount to \$648.94.