

The judgment of the Court (OSLER, MACLENNAN, MOSS, GARROW, J.J.A.) was delivered by

OSLER, J.A.—The amount in question, i.e., of the defendant's interest in the piano, is small, less than \$100, and, although the point upon the construction of the Conditional Sales Act is an important one, and possibly still capable of argument, it does not seem reasonable that a further appeal should be permitted for the purpose of settling it at the possible expense of the plaintiff, who has already obtained the judgment of two Courts in his favour, although on different grounds. If the amount at stake had been more substantial, that might have been a reason for further argument, but, as the case stands, under all the circumstances, justice to both parties will best be done by holding that litigation is at an end. Motion refused with costs.

SEPTEMBER 17TH, 1902.

DIVISIONAL COURT.

MERCHANTS BANK OF CANADA v. SUSSEX.

*Arrest—Ca. Sa.—Concurrent Writ—Expiry of Original Writ—Invalid Arrest—Application for New Writ—Concealment of Material Facts—Setting aside Order.*

Appeal by defendant from order of FALCONBRIDGE, C.J., in Chambers, ante 572, dismissing defendant's motion to set aside an order made by the Chief Justice on the 21st May, 1902, under sec. 8 of R. S. O. ch. 8, for the issue of a writ of ca. sa. to the sheriff of Kent, and one or more concurrent writs, and another order made by the Chief Justice on the 21st August, 1902, for the issue of a writ of ca. sa. to the sheriff of Lambton, and also to set aside the writs issued pursuant to such orders, and for the discharge of the defendant from custody.

J. E. Jones, for defendant.

J. H. Moss, for plaintiffs.

The judgment of the Court (STREET and BRITTON, J.J.) was delivered by

STREET, J.—The concurrent writ of ca. sa. to the sheriff of Lambton issued on the 16th August, 1902, under which the defendant was arrested, was improperly issued, as it was issued more than two months after the original writ with which it was concurrent had been issued. The original writ had expired by lapse of time under Rule 874, and a concurrent writ could not thereafter be issued.