

It is of great importance to defendant to escape such a long delay, and his counsel offered to have a trial at the May sittings of the County Court here before a jury. As might be expected plaintiff does not agree to this. The company does not think it can have a fair trial before a jury of this county as against one of the farmers.

I assume that the jury notice was given by defendant. If he is really anxious to have a speedy trial, he can do so by withdrawing the jury notice, and then the case can be transferred here and tried at the non-jury sittings.

This will accomplish what will be advantageous to both parties and will obviate the objection of the plaintiff company to a trial before a possibly adverse jury.

The costs of the motion will be in the cause.

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HON. MR. JUSTICE MIDDLETON.

APRIL 29TH, 1913.

TUCKER v. BANK OF OTTAWA.

4 O. W. N.

*Action—Motion to Stay—Security for Costs—Claims against a Bank for Alleged Torts—Assignability of.*

MASTER-IN-CHAMBERS dismissed a motion to stay an action or for security for costs where plaintiff had made an assignment for the benefit of creditors upon the ground that the damages recoverable upon the claims of tort made in the action were not in any case assignable and so the action was clearly being prosecuted for the plaintiff's own benefit.

*White v. Elliott*, 30 U. C. R. 253, and other cases referred to.

MIDDLETON, J., affirmed above judgment, costs to plaintiff in cause.

Appeal by defendant from order of the Master in Chambers, dismissing motion to stay action, or for security for costs, argued on 18th April, 1913.

Grayson Smith, for the defendant.

F. Aylesworth, for the plaintiff.

HON. MR. JUSTICE MIDDLETON:—The plaintiff claims that the bank unlawfully charged to his account certain notes not yet due and misappropriated certain money the proceeds of certain discounts whereby he was compelled to