

1900, the plaintiffs wrote asking payment, to which request Jackson replied that nothing was due. On March 4th, 1901, this action was begun, not against the treasurer, but against the corporation. There has not been any by-law or resolution of the council regarding this matter, nor has the town made any contract in respect of it. . . . R. S. O. ch. 224, sec. 224, provides for the purposes of collection of taxes that the treasurer and mayor of a town shall perform, upon its incorporation, the like duties as are in the Act, before, in the case of other municipalities, imposed on the county treasurer and warden respectively. In this case the warrant was issued by the mayor of the town. . . . I entirely agree with the judgment of the Judge of the County of York in *Warwick v. County of Simcoe*, 36 C. L. J. 461. Under sec. 224, the treasurer is an officer pointed out by the legislature, and commanded to perform certain duties for the general good, and in neither case can the municipality interfere with the officer in the performance of those defined duties. The treasurer in the present case did not at any time attempt to pledge the defendants' credit, and he had no power to do so, and they are not liable. Action dismissed with costs.

Blake, Lash, & Cassels, Toronto, solicitors for plaintiffs.

C. C. Going, Toronto Junction, solicitor for defendants.

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MACMAHON, J.

JANUARY 27TH, 1902.

TRIAL.

DUNN & CO. v. PRESCOTT ELEVATOR CO.

*Bailment—Warehouseman—Negligence of—Loss of Corn Stored in Elevator from Heat—Measure of Damages.*

Action tried at Ottawa, brought to recover damages for alleged negligence, want of skill, and improper conduct of defendants in storing, warehousing and taking care of 50,000 bushels of corn, ex steamer *Niko*, and 62,300 bushels, ex steamer *Nicaragua*, to arrive at defendants' elevator in April, 1897, composed of old hard, dry corn, No. 3.

J. Leitch, K.C., for plaintiffs.

J. A. Hutcheson, Brockville, for defendants.

MACMAHON, J.—The duty of a warehouseman is stated in *Beven on Negligence*, 2nd ed., p. 999. See *Snodgrass v. Ritchie*, 17 *Rettie* 712; *Brabant v. King*, [1895] A. C. 632, at p. 640; *Powers v. Mitchell*, 3 *Hill (N.Y.)* 545. . . . The defendants had ample facilities for turning over the