

the agents of the client in employing him, and the money sent them should be considered as paid to the client, the solicitors not being entitled to it for themselves.

*Metcalfe*, for solicitor. *Mulock*, Q.C., for client.

Killam, C. J.]

DICK v. WINKLER.

[August 10.

*Landlord and tenant—Distress for rent—Rent payable in kind—Distraint after six months from end of term—Liability of landlord for illegal act of bailiff.*

The plaintiff's claim was for damages against defendant for wrongful seizure and sale of his goods and chattels under color of distress for rent, under a seven months' lease, terminating 1st October, 1898. Plaintiff by way of rent was to deliver all the wheat grown upon the demised premises to defendant, as soon as it should be threshed, and defendant was to sell it and retain one-half the proceeds for himself and pay over the balance to plaintiff. Default having been made by plaintiff in delivering the wheat as agreed, defendant, on 3rd March, 1899, gave a distress warrant to a bailiff to remove what was claimed to be one-half the value of the wheat grown.

The bailiff did not make the seizure until the 3rd of April, and although plaintiff remained in possession, nothing had been done by way of extending the tenancy or creating a new lease.

*Held*, that the rent reserved might lawfully have been distrained for, but that the distress was illegal under 8 Anne, c. 18, ss. 6, 7, having taken more than six months after the determination of the tenancy; also that defendant should be held liable for the acts of his bailiff, although no evidence was given to show that defendant knew the date of the seizure, because he had learned of the fact of the distress before the sale took place, and took advantage of the proceedings by receiving the proceeds, and it is proper to infer in the absence of evidence to the contrary that he either knew of the illegality or meant to take upon himself without inquiry the risk of any irregularity the bailiff might have committed, and to adopt all the bailiff's acts. *Lewis v. Read*, 13 M. & W. 834, followed. Verdict for plaintiff for the value of the goods seized, and costs of the action, and set-off allowed to defendant for one-half the value of the wheat grown on the premises.

*Forrester*, for plaintiff. *Elliott*, for defendant.