

And the offence being thus one to be dealt with under s. 344 the Court of General Sessions of the Peace would have jurisdiction, and the police magistrate the same jurisdiction, under s. 785, there being the consent of the defendant.

DuVernet, for the defendant. *J. R. Cartwright*, Q.C., for the Crown.

COUNTY COURTS.

COUNTY OF YORK.

HARRIS v. CANADA PERMANENT L. & S. Co.

Landlord and tenant—Distress—Exemptions—R.S.O., 1887, c. 143, s. 27—55 Vict., (O.) c. 31.

In 1897 a landlord distrained furniture of a monthly tenant in arrear for eighteen months rent. The furniture would have been exempt if seized under execution, and also under R.S.O. c. 143, s. 27, if seized for rent. In case of a monthly tenancy 55 Vict. c. 31 (O.) purported to amend the section with respect to such exemption. The tenant moved for an injunction to restrain sale. The motion was granted upon the ground that the language of the amendment 55 Vict. c. 31 (O.) is insensible and inoperative, and R.S.O. c. 143, s. 27 is not thereby cut down.

[TORONTO, Nov. 2, 1897.—McDOUGALL, Co. J.]

This was an application for an injunction. The facts of the case sufficiently appear in the judgment.

McDOUGALL, Co. J.—This is an application for an injunction to restrain the sale of certain goods seized under a landlord's warrant. The parties are agreed that I shall determine the whole matter summarily, as all facts necessary to conclusion have been put in before me on this motion, and the plaintiff's rights depend entirely upon the construction to be placed on the language of R.S.O. c. 143, s. 27, as amended by 55 Vict., c. 31 (O.).

Section 27 as amended by this latter Act reads as follows:

"The goods and chattels exempt from seizure under execution shall not be liable to seizure by distress by a landlord for rent in respect to a tenancy created after the first day of October, 1887, except as hereinafter provided; nor shall such goods be liable to seizure by distress by a collector of taxes accruing after said 1st October, 1887, unless they are the property of the person actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor; provided that in the case of a monthly tenancy such exemption shall only apply to two months' arrears of rent."

The question is what do the words of the amendment, "Provided that in the case of a monthly tenancy such exemptions shall only apply to two months' arrears of rent" mean.

The law of landlord and tenant as it stood before the passage by the Legislature of s. 27 of R.S.O. 143 allowed the landlord under his warrant of distress to take all goods found on the demised premises. This was the harshness of the common law, and it had prevailed for a long series of years. The tenant had no exemption save that the landlord could not take the beast