

The only question remaining to be determined, therefore, is, whether Violet Batzold's evidence for any reason should be held to be insufficient corroboration of that of the plaintiff, because of the fact that she was a cestui que trust of the money in question.

R. S. O. ch. 73, sec. 10, applied to the present case, means that Mrs. Batzold cannot obtain a verdict on her own evidence unless she has been corroborated by some other material evidence. The evidence of Violet Batzold was, in my opinion, material evidence corroborating that of the plaintiff, and there is nothing in the Act which would justify a Judge in declining to submit it to the jury as corroboration. Her interest in the result might well be considered by the jury in considering the weight to be attached to it, but the evidence could not be withdrawn from their consideration.

In my opinion, the appeal must be allowed with costs, and the judgment of the Court below must be set aside, and a verdict entered for the plaintiff for \$300 with interest at five per cent. from 13th August, 1899, and costs.

J. A. Robinson, St. Thomas, solicitor for plaintiff.

McCrimmon & Wilson, St. Thomas, solicitors for defendant.

MAY 22ND, 1902.

DIVISIONAL COURT.

LLOYD v. WALKER.

Assessment and Taxes—"Owner"—Agreement to Purchase from Mortgagee Pending Foreclosure—Possession—Name not on Roll, nor Person Assessed—R. S. O. ch. 224, sec. 135, sub-sec. (1), cl. 3—Lease—Estoppel.

Appeal by defendant from judgment of County Court of York in action brought to restrain defendant, the tax collector for the township of Whitchurch, from selling, under a distress warrant for arrears of taxes upon a certain farm lot in that township, a quantity of building material, cedar posts, etc., found thereon, and admitted to be the property of the plaintiff. One Pegg, the owner of the farm lot, mortgaged it, in 1895, to the Independent Order of Foresters, and in July, 1899, the mortgagees in possession made an agreement to sell to plaintiff, upon certain terms, as soon as they had completed pending foreclosure proceedings. In the meantime, the plaintiff was to have possession, manage