

undivided half so as to defeat plaintiff's claim; that defendant Bird cut the timber with full notice of the mortgage and caution, and is liable for reduction in value; and directed judgment for registration and that plaintiff is entitled to have his mortgage registered and to a declaration that it is binding on the undivided half interest now in name of defendant C. A. Spence, and to \$187.50 damages and full costs. The \$187.50 to be credited on the mortgage.

T. R. Ferguson, Rat Portage, solicitor for plaintiff.

W. B. Towers, Rat, Portage, solicitor for defendant Bird.

MEREDITH, J.

JANUARY 10TH, 1902.

CHAMBERS.

REX v. KENNEDY.

Conviction—Prisoner not consenting—Habeas Corpus—Criminal Code, sec. 783.

Motion upon the return of a habeas corpus for discharge of prisoner tried, but without his consent, under sec. 783 of the Criminal Code, and convicted.

E. B. Stone, Peterborough, for prisoner.

J. R. Cartwright, K.C., for the Crown, offered to consent to order being made under sec. 752 of the Criminal Code.

MEREDITH, J.—The prisoner must be discharged, and, his counsel consenting, there will be the usual clause in the order protecting the magistrate. There seems no reason against his being again convicted if the authorities choose to proceed.

MEREDITH, J.

JANUARY 10TH, 1902.

CHAMBERS.

BROTHERS v. ALFORD.

Municipal Corporation—By-law — Validity of — Conviction and Fines under, for Breaking Hired Buggy—Appeal to Sessions—Dismissal on Preliminary Objection—Not a Bar to Certiorari.

Motion for certiorari to remove a conviction by the police magistrate of Stratford. Defendant hired a horse and buggy from a liveryman, and the buggy was injured, and under the consolidated by-laws of the city of Stratford the defendant was fined for refusing to pay the damage sustained owing to the breaking of the buggy. It was pointed out on behalf of prosecutor that an appeal had been taken to the General Sessions of the county of Perth and the conviction affirmed.

J. J. Coughlin, Stratford, for defendant.

D. L. McCarthy, for prosecutor.