

requested to do so, and that defendant thereupon removed plaintiff, using no more force than was necessary.

*He'd*, that defendant was justified in using such force as was necessary to effect the removal of plaintiff from his premises, but as by his own admission he did more than this plaintiff was entitled to recover for the excess, and the verdict of the jury in defendant's favour must be set aside.

*J. J. Ritchie*, K.C., for appellant. *R. G. Monroe* and *T. R. Robertson*, for respondent.

---

Full Court.]                      *WILCOX v. STEWART.*                      [Dec. 18, 1905.

*Slander—Words charging theft—Privileged occasion.*

In an action brought by plaintiff claiming damages for words spoken by defendant of a concerning plaintiff imputing that plaintiff was a thief, the defence set up was that on the occasions when the words in question were used defendant, on behalf of the Reid Newfoundland Steamship Company, was conducting an enquiry into a shortage of accounts of one M., who was agent of the company at North Sydney and that all the parties present were employees of the company and were endeavouring to ascertain what had become of money which appeared by the accounts to have been taken from the office at the place where the enquiry was being held. The trial judge instructed the jury that the occasion upon which the words complained of were uttered was privileged and that the words were not the subject of an action unless the jury found that defendant in uttering the words was actuated by ill-will or by some indirect motive other than a sense of duty, and that the burden of proving this was upon plaintiff.

*Held*, that the instructions given were correct and that in the absence of evidence such as that indicated the verdict of the jury in favour of plaintiff was wrong and must be set aside and the action dismissed with costs.

*Covert*, for appellant. *W. F. O'Connor*, for respondent.

---

Full Court.]                      [Dec. 18, 1905.

*MARKS v. DARTMOUTH FERRY COMMISSION.*

*New trial—No substantial change in evidence—Withdrawal of case from jury.*

The judgment of the Supreme Court of Nova Scotia in an action by plaintiff as executrix of M. to recover an amount