

FALCONBRIDGE, C.J.

OCTOBER 14TH, 1902.

TRIAL.

## WATTS v. SALE.

*Chattel Mortgage—Seizure under—Breach of Trust—Damages.*

Action for damages for taking possession of a laundry business in the city of Windsor under a chattel mortgage, which the plaintiffs alleged was a breach of trust.

W. R. Riddell, K.C., and J. W. Hanna, Windsor, for plaintiffs.

A. B. Aylesworth, K.C., and J. E. O'Connor, Windsor, for defendant.

FALCONBRIDGE, C.J.:—I find all the issues of fact in favour of defendant. I find that defendant in making the seizure acted in good faith with the object of protecting the trust property and himself as trustee-mortgagee, and he is entitled to be recouped his expenses and to be paid proper compensation for his care and trouble.

I acceded somewhat hastily to the proposition that plaintiffs' damages should, in the event of their succeeding, form the subject of a reference. But it was quite manifest on the general evidence that plaintiffs have suffered (if any) damages of the least substantial that can be imagined.

Action dismissed with costs, including all costs over which I have any disposing power. Reference to determine amount of defendant's compensation and disbursements.

Thirty days' stay.

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 OCTOBER 14TH, 1902.

DIVISIONAL COURT.

## MURPHY v. BRODIE.

*Stay of Proceedings—Consolidation of Actions—Parties.*

An appeal by plaintiff from an order of BRITTON, J., in Chambers, ante 429, varying an order of one of the local Judges at Sandwich which dismissed an application by defendant to stay proceedings in this action, or to consolidate it with the action of Stuart v. Brodie, in which the same issues were said to be involved.

F. A. Anglin, K.C., for plaintiff.

F. E. Hodgins, K.C., for defendant.

THE COURT (BOYD, C., STREET, J., MEREDITH, J.) varied the order appealed against by directing that this action