

WAIVER.

1. *Chattel mortgage—Execution seizure.*—Where a sheriff seizes goods under a writ of execution, and a mortgagee lays claim to them under a chattel mortgage, the fact that he subsequently directs the sheriff to sell under the execution, does, not necessarily amount to a waiver of his claim under the mortgage. *Segsworth v. The Meriden Silver Plating Co.*, 413.

2. *Of service of summons.*—See CONVICTION.

3. *Of formalities.*—See DISTRESS—RAILWAYS AND RAILWAY COMPANIES, 4.

See ESTOPPEL.

WATER AND WATER-COURSES.

1. *Drainage—Overflow—Public drainage work—Municipal law—Drainage Acts—Damages—R. S. O. ch. 174—Id. ch. 199.*—Where a municipality, acting under the Ontario Drainage Act, in pursuance of a scheme for the drainage of their township, constructed a system by which water was drained off into a certain drain formerly constructed through the plaintiff's land and running into a natural creek, whereby the creek, by reason of the accumulation of water caused by the new drains, though sufficient before to carry off the water brought down into it, overflowed and injured the plaintiff's land.

Held, that the defendants were liable for any damage thus caused to the plaintiff, and there was nothing in the municipal or other legislation

of this Province to change the illegal character of such an Act.

It appeared, however, that the plaintiff's property had been benefited by the drainage works as a whole to a greater extent than it had been injured by the overflow complained of, and the defendants acceded to the reasonableness of the plaintiff's demand for a better outlet, and were proceeding to make it.

Held, that under these circumstances it was sufficient for the present to declare the plaintiff entitled to have the creek widened and deepened to the necessary extent within a reasonable time. *Northwood v. The Corporation of the Township of Raleigh*, 347.

2. *Municipal corporation—Drainage by-law—Misappropriation of moneys assessed—Breach of trust—Mandatory order—Injunction—Par. 44—Attorney-General—Arbitration—R. S. O. ch. 175, sec. 529.*—

Where, on the petition of the plaintiff and other ratepayers, a township corporation had passed a by-law for the construction of the B. drain, and the assessment of the lands to be benefited thereby, part of which the plaintiff owned, but the drain had not been completed, though a reasonable time had elapsed, and a portion of the moneys assessed had been applied upon a certain other drain, not mentioned in the petition, the report of the public land surveyor made pursuant to R. S. O. ch. 529, or in the said by-law, and of no value to the said petitioners.

Held, that the plaintiff was entitled to an order compelling the corporation to complete the B. drain according to the by-law, to an injunction to restrain further misapplication of the moneys assessed, and to an account thereof, for that the by-