

sponse to certiorari issued in aid of a writ of habeas corpus, while disclosing a sale on the premises, failed to shew a sale by the defendant himself the conviction and imprisonment of the defendant was held to be illegal and an order made for his discharge from custody.

*J. B. MacKenzie*, for defendant. *Cartwright*, K.C., for Crown and convicting magistrate.

Divisional Court, Ch.D.]

[Nov. 18, 1907.]

LAWSON v. CRAWFORD.

*Injunction—Interim—Prima facie case disclosed—Subsequent displacement.*

Sub-section 9 of section 58 of the O. J. Act, R.S.O. 1897, c. 51, does not give any new right to claim an injunction, or extend the jurisdiction of the Court, or alter the principles upon which it gives summary relief by interlocutory injunction.

*S. R. Clarke*, for defendant. *Watson*, K.C., for plaintiff.

Meredith, C.J.C.P., MacMahon, J., Teetzel, J.]

[Dec. 9, 1907.]

BRYANS v. MOFFATT.

*Jury notice—Striking out—Discretion exercised before trial—Equitable defence.*

The discretion of a judge in Chambers in striking out a jury notice, in an action to be tried outside of Toronto, was held to have been properly exercised where the action was brought by the executors of a deceased mortgagee upon the covenant contained in the mortgage deed, and the defence was that the written documents, the mortgage deed and the deed of conveyance to the mortgagors, did not express the true agreement between the parties.

Semble, per MEREDITH, C.J.C.P., that the rule laid down in *Montgomery v. Ryan* (1906) 13 O.L.R. 397 might well be extended to all cases, whether to be tried in Toronto or elsewhere.

Semble, also, that the facts alleged in the defence would not