

body such as defendants in the Taff Vale case. If an actionable wrong has been done to plaintiffs by the appellants, relief may be obtained in the manner pointed out by Lords Macnaghten and Lindley in the Taff Vale case, and as it was obtained in *Linaker v. Pilcher*, 84 L. T. 421.

Appeal allowed and order made setting aside service. No costs here or below to either party.

FALCONBRIDGE, C.J.

MARCH 5TH, 1903.

CHAMBERS.

SCHEEMAN v. DUNDAS.

Malicious Prosecution—Action—Dismissal for Want of Prosecution—Excuse for Delay—Leave to Proceed—Terms.

Appeal by plaintiff from order of a local Judge at Gode-rich dismissing, for delay in proceeding to trial, an action for malicious prosecution.

W. Proudfoot, K. C., for plaintiff.

R. McKay, for defendant.

FALCONBRIDGE, C.J.—The local Judge was not wrong in making the order appealed against. But there was some excuse for plaintiff's delay in bringing the action on for trial, viz., the result of the question which was being settled in *Rex v. Scully*, 4 O. L. R. 394, 1 O. W. R. 452, and the disinclination which existed in the Attorney-General's department to deal with applications for fiats, pending that litigation. Order varied by directing that on payment of the costs of the motion before the local Judge and of this appeal, and on payment of \$40 into Court to answer pro tanto defendant's costs of the action, if he should become entitled thereto, all within three weeks after taxation of the costs, plaintiff may proceed to trial at the then next ensuing jury sittings; otherwise, appeal dismissed with costs.

MARCH, 5TH, 1903.

DIVISIONAL COURT.

TAGGART v. BENNETT.

Costs—Scale of—Jurisdiction of Divisional Court—Action for Balance of Account—Ascertainment—Settled Account—Appeal to Divisional Court from County Court—Time—Extension of.

Appeal by plaintiff from judgment of Judge of County Court of Middlesex. The action was brought to recover \$41, the balance of an account which amounted to \$406.