

difference that they were remunerated by the borrower and not by W. their principal; and it was also proved that L. & Co. were guilty of gross negligence and liable to make good the loss sustained by W. in consequence thereof.

*Held* also, reversing the decision appealed from, Taschereau and Gwynne, JJ. dissenting, that W. was not entitled to recover back the whole sum advanced by the brokers with interest at the rate in the mortgage, as held by the Court below, but could only recover the loss occasioned by the over-valuation adopted and acted on by the brokers.

*Held* per GWYNNE J., that W. was entitled to the sum advanced, but with interest at 6 per cent. only.

Appeal dismissed and judgment varied without costs.

*Robinson*, Q.C., for the appellants.

*Moss*, Q.C., for the respondent.

## Province of Ontario.

### HIGH COURT OF JUSTICE.

#### *Common Pleas Division.*

Full Court ]

[Easter Sittings, 1893.

REGINA *v.* HARRIET HAYWARD.

*Cross-examination on affidavit filed on pending motion—Right to procure in criminal matter—Con. Rule 578—Inapplicability of.*

The Police Magistrate of the Town of Woodstock, and the informant, in the case of a conviction made by the former and removed into this court by certiorari, applied for an order to cross-examine the defendant on an affidavit made by her.

*Held*, that Rule 578 of the Consolidated Rules of Practice, does not authorize the cross-examination of deponent on an affidavit filed in connection with a pending proceeding before the Court to quash a summary conviction of a Justice of the Peace, this being a criminal matter, and, by Consolidated Rule 1, interpreting and confirming section 163 of the Ontario Judicature Act, brought outside the operation of the Rules.

*Langton*, Q.C., for the applicant.

*DuVernet*, for the defendant.

#### *Chancery Division.*

BOYD, C.  
ROBERTSON, J.]

[Dec. 17, 1895.

GARLAND *v.* CITY OF TORONTO.

*Master and servant—Workmen's Compensation for Injuries Act, 1892—Order to which workman injured was bound to conform—55 Vict., c. 20, s. 3, s-s. 3.*

The order within the meaning of 55 Vict., c. 20, s. 3, s-s. 3, may be implied from the ordinary course of business in the construction of the work in question,