

The defendant does not categorically deny the mistake which is said to have been made in the figures whereby plaintiffs claim to have overpaid defendant by the sum of \$448, but only says in a general way that he is "not indebted to the plaintiffs in any sum whatever."

I think the *status in quo* ought to be preserved, and I shall continue the injunction to the hearing.

Costs in cause unless the trial Judge shall otherwise order.

David Robertson, Walkerton, solicitor for plaintiffs.

Ritchie, Ludwig, & Ballantyne, Toronto, solicitors for defendant.

JUNE 2ND, 1902.

DIVISIONAL COURT.

DUNN & CO. V. PRESCOTT ELEVATOR CO.

Bailment—Warehouseman—Negligence of—Stored Corn—Measure of Damages.

Appeal by liquidator of defendants from judgment of MACMAHON, J., ante p. 75.

G. F. Henderson, Ottawa, for appellants.

J. Leitch, K.C., for plaintiff.

The judgment of the Court (FALCONBRIDGE, C.J., STREET, J., BRITTON, J.) was delivered by

STREET, J.—The duties of defendants under the circumstances are concisely and properly stated in *Beal v. South Down R. W. Co.*, 3 H. & C. at p. 342. See also *Story on Bailments*, secs. 444 and 408; *Brabant v. King*, [1895] A. C. at p. 646; *Snodgrass v. Ritchie*, 17 Rettie, 712; *Re Mersey Docks*, 1 H. L. C. 93. . . . In my opinion the defendants were guilty of negligence in not having more carefully watched and examined the condition of the corn under the circumstances, and they are liable to the plaintiffs for the loss which has happened. The damages have been properly estimated, and the appeal should be dismissed with costs.

JUNE 2ND, 1902.

DIVISIONAL COURT.

RE GAULT v. CARPENTER.

Appeal—County Court—Interlocutory Order—Examination of Judgment Debtor—Production by Transferee of—Jurisdiction—R. S. O. ch. 55, sec. 52.

Appeal by judgment debtors and their mother, Elizabeth Carpenter, from order of a County Court Judge, made after