

By consent of the parties, judgment had been entered for the principal advanced, and it was agreed that, if the Court should find that any sum was due in respect of overcharges of interest, it should be deducted from the amount for which judgment had been entered.

The plaintiffs formerly were builders and contractors, and were now engaged in manufacturing hats. They also carried on money-lending, and had made other loans at 2 per cent. per month.

The learned Judge found that the plaintiffs were money-lenders within the meaning of the Ontario Money-Lenders Act, R.S.O. 1914 ch. 175, and also within the meaning of the Dominion Money-Lenders Act, R.S.C. 1906 ch. 122; that the transactions under which the notes sued on were given were harsh and unconscionable: sec. 4 of the Ontario Act; and that, having regard to the risk and to all the circumstances, the cost of the loans and each of them was excessive.

Reference to secs. 6 and 7 of the Dominion Act; *Bellamy v. Porter* (1913), 28 O.L.R. 572; *Bellamy v. Timbers* (1914), 31 O.L.R. 613.

The transactions should be opened up and interest allowed at the rate of 12 per cent. per annum only, all proper deductions made in respect of sums above that amount, and the amount of the judgment entered reduced accordingly.

If the parties cannot agree upon the figures, there will be a reference to take an account.

The defendants should have the costs of their defence and counterclaim subsequent to the entry of judgment, and the costs of the reference, if any.

A contemporary agreement in respect of a note may be valid, whether oral or in writing: see *Maclaren on Bills and Notes* (1909), pp. 46, 47, 48; *Young v. Austen* (1869), L.R. 4 C.P. 553; *Brown v. Langley* (1842), 4 M. & G. 466; *Salmon v. Webb* (1852), 3 H.L.C. 510.

CLUTE, J.

APRIL 27TH, 1917.

RE WRIGHT.

*Will—Devise to Town Corporation in Trust to Provide Home for Aged Women—Inadequacy of Property Devised for Purpose—Discretion of Council—Application in Aid of Erection of House of Refuge for County—Cy Près Doctrine—Selection of Aged Women for Benefits of Home.*

Motion by the Corporation of the Town of Napanee, upon originating notice, for an order determining a number of ques-