

made (in and by the letter of March 7th, 1907, to have the agreement made by Wiley modified in two particulars (1) the transfers were not to be registered; (2) they were not to become the property of the syndicate until an agreement between the syndicate, Campbell, and Wiley should be carried out—and that while the first change was acceded to by Warren (whether wisely or unwisely), the second was not. He says: "I will hold the transfers unregistered subject to the terms of the undertaking that I have."

It is argued that the last words of W.'s letter have some significance, but in view of all the correspondence, all they mean must be "neither the rights of Wiley nor those of the purchaser Campbell, etc., the parties to the agreement you speak of will be affected *inter se* by the transfers reaching our hands."

If these terms were not satisfactory to Wiley or his solicitor, they should have said so; but as I have already said, by their course of conduct, they must be taken to have acquiesced in the terms of this last letter.

Counsel for the Trusts & Guarantee Co. seems to have thought that, notwithstanding the express agreement to hold the transfers unregistered, the company being trustees were justified in registering them. No authority is cited for that proposition, and counsel before us expressly abandoned the position and admitted for the purpose of this action that his clients had done wrong. Therefore, however, the omission to register might have rendered the company liable to their *cestuis que trustent*, the registration must be vacated and the transfers declared "unregistered."

But with that done, I cannot see that the company are not entitled to hold the transfers in trust "for the Cobalt Nipigon Syndicate," as set out in the undertaking of November 22nd, 1906.

What is the "Cobalt Nipigon Syndicate?" Not simply Campbell, Dexter, and White, who in a proceeding to which the defendants were not party, were held to be "the only members on November 26th, 1906." See 19 O. L. R., at p. 86.

There is no doubt that confusion has arisen by reason of the ambiguity in the name "The Cobalt Nipigon Syndicate." There was a partnership formed by Campbell, Dexter, and White, evidenced by an indenture 24th November, 1906, exhibit 6, to continue for two years under the management of Campbell alone, he to have 80 per cent. of the profits and