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TORONTO, MAY 25, 1910.

No. 35.

COURT OF APPEAL.

MARCH 24TH, 1910.

METROPOLITAN TRUST AND SAVINGS BANK v. OSBORNE.

Foreign Judgment—Action on—Regularity of Judgment—Submission to Jurisdiction—Defences to Original Cause of Action not Open.

Appeal by the defendants from the judgment of CLUTE, J., in favour of the plaintiffs in an action upon a judgment recovered in the Circuit Court of Cook County, Illinois, and alternatively upon the promissory note which was the subject of the action in the foreign Court.

The appeal was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.

H. S. Osler, K.C., and W. S. Edwards, for the defendants.
W. J. Elliott, for the plaintiffs.

The judgment was pronounced on the 24th March, 1910, dismissing the appeal.

The written opinions were given to the Registrar on the 17th May, 1910.

Moss, C.J.O.:—The preliminary difficulty in the way of the defence is the existence of the judgment recovered by the plaintiffs against the defendants in the Circuit Court of Cook County, Illinois. As between the plaintiffs and defendants, it must be taken that the instrument upon which the recovery and judgment are based was signed by the defendants with a knowledge of its contents and with the intention to bind themselves according to