

SCOTT, LOCAL MASTER.

JANUARY 30TH, 1906.

MEREDITH, C.J.

FEBRUARY 6TH, 1906.

CHAMBERS.

ONTARIO BANK v. CAPITAL POWER CO.

Summary Judgment—Action on Promissory Notes—Defences—Agreement for Advances—Construction—Powers of Company—Accommodation Indorsers—Sureties—Discharge—Counterclaim—Damages—Accounting.

Motion by plaintiffs for summary judgment under Rule 603. The claim was for \$82,301.69, alleged to be due on two promissory notes made by defendants the Capital Power Company, one for \$37,959.30, payable to the order of the defendant W. J. Conroy, and the other for \$39,633.92, payable to the order of the defendant Louis Simpson, both dated 2nd February, 1904, payable 15 days after date and indorsed to plaintiffs. The notes were in renewal of similar earlier ones, the originals of the series having been given some time about March, 1902. A concurrent action was brought against the defendant company and defendant Conroy, on a similar note for \$6,000, and a motion for judgment in that case was brought on with this motion but was abandoned.

F. R. Latchford, K.C., and Glyn Osler, Ottawa, for plaintiffs.

A. W. Fraser, K.C., and J. G. Gibson, Ottawa, for defendant company and defendant Simpson.

G. F. Henderson, Ottawa, for defendant Conroy.

THE MASTER:—In order to understand the defences sought to be set up it will be necessary to review at some length the transactions out of which the loans in question in this and the other action arose. Prior to June, 1900, the defendant Conroy and his brother, since deceased, were the owners of certain property, including water power only partly developed, against which were several mortgages. Through the efforts of the Conroys and the defendant Simpson the defendant company was formed to take over a portion of the property, including the water power, and by two