

It does not seem to me, therefore, that the proviso, taken as a whole, entitles plaintiffs to any interest upon interest which accrues after maturity of the principal money. I think it is clearly deducible from the authorities that, where a claim is made to convert interest into capital, the intention of the parties should be indicated by clear and unambiguous language, and, in my opinion, no such intention is indicated in this case, except as to interest accruing during one year.

See *St. John v. Rykert*, 10 S. C. R. 278, at p. 288; *Bythewood*, 4th ed., vol. 3, p. 895, and precedents, p. 1131; *Am. and Eng. Encyc. of Law*, 2nd ed., vol. 16, p. 1073; *Coote on Mortgages*, 7th ed., p. 1181.

I would allow the appeal with costs, and direct the report to be amended by striking out all allowances for interest on interest which has accrued since maturity of principal.

BOYD, C., and MAGEE, J., gave reasons in writing for the same conclusion.

MAGEE, J., referred, in addition to the cases cited by TEETZEL, J., to *People's Loan and Deposit Co. v. Grant*, 18 S. C. R. 263.

FEBRUARY 2ND, 1905.

DIVISIONAL COURT.

O'DONNELL v. CANADA FOUNDRY CO.

*Malicious Procedure—False Arrest and Imprisonment—County Constable—Absence of Malice and of Notice of Action—Responsibility for Arrest—Special Employment and Payment of Constable—Labour Troubles—Picketing.*

Appeal by plaintiff from judgment of ANGLIN, J., 4 O. W. R. 402, dismissing action for false arrest and imprisonment.

The appeal was heard by BOYD, C., MEREDITH, J., MAGEE, J.

J. G. O'Donoghue, for plaintiff.

G. H. Watson, K.C., for defendants.

BOYD, C.—In the face of the direct evidence given by plaintiff's witnesses, there is no room for any implication of authority being brought home to defendant company so as to make that body responsible for the arrest or prosecution of plaintiff.

The company made application to the high constable of the county for police protection, for which the company were