TRUST FUND FOR REDEMPTION OF BONDS OFFERED AT "LOWEST PRICE"—CONSTRUCTION.

National Trust Co. v. *Whicher* (1912) A.C. 377. This was an appeal from the Court of Appeal for Ontario reversing by a majority the judgment of Riddell, J. The question in controversy was concerning the proper construction of a trust deed providing for the redemption of the bonds of a company. The deed in question provided that the trustees were by advertisement to call for offerings of bonds and from those offered they were, out of the proceeds of the trust fund, to purchase those offered at "the lowest price." The trustees having published an advertisement, offers were sent in by various bondholders, among others, by the respondent, who offered $10,000, for which he agreed to accept $82 per $100, and by one Untermeyer, who offered $195,700 at $86.8 per $100. The aggregate amount offered below $86.8 was $143,000, but Untermeyer refused to agree that the $143,000 bonds should be redeemed and to offer sufficient bonds at $86.8 to make up the balance of the sinking fund at the disposal of the trustee, the total amount available for redemption being only $170,000. It was ultimately agreed between the trustees and Untermeyer that $39,400 of bonds should be redeemed at rates less than $80 per $100, and that he would offer bonds of the par value of $160,000 for the balance of the sinking fund. By this means the trustees were enabled to pay off a larger amount of bonds with the money at their disposal than they would have been had they accepted all offers (including that of the plaintiffs) below $86.8. Riddell, J., was of the opinion that the meaning of the words "lowest price" in the provision for redemption meant the lowest price as to the whole block purchased; and with this view the Judicial Committee of the Privy Council (Lord Loreburn, L.C., and Lords Macnaghten, Atkinson and Robson) agreed. The decision of the Court of Appeal was, therefore, reversed.

DAMAGES FOR BREACH OF CONTRACT — LIQUIDATED DAMAGES OR PENALTY.

Webster v. *Bosanquet* (1912) A.C. 394. This was an appeal from the Supreme Court of Ceylon reversing a judgment of the District Court of Colombo as to the proper construction of a contract which provided that on breach thereof a specified amount should be paid "as liquidated damages, and not as a penalty." The court below had held that the sum