

them personally liable for loss if they do not, assuming that they act honestly and with ordinary prudence. Lopes, L.J., thus succinctly formulates the law on this point, "A trustee who is honest and reasonably competent is not to be held responsible for a mere error in judgment when the question which he has to consider is whether a security of a class authorized, but depreciated in value, should be retained or realized, provided he acts with reasonable care, prudence and circumspection." The case is noteworthy, also, from the fact that the trustee had omitted to appeal from the Chief Clerk's certificate, and the Court of Appeal permitted him to do so in order to raise the substantial question of merits, which had practically been conceded when the case was before Kekewich, J.

PRACTICE—ADMINISTRATION—RES JUDICATA—PERSON NOT A PARTY, WHEN BOUND BY JUDGMENT—NOTICE—ESTOPPEL BY CONDUCT—ABSENT PARTIES—CLASS, REPRESENTATION OF—ORD. XVI., RR. 11. 32—(ONT. RULES, 324, 316).

*In re Lart, Wilkinson v. Blades*, (1896) 2 Ch. 788, turns on a question of practice. In 1881 an action was commenced for the construction of a will as to the share of the testator's estate given to a Mrs. Stanton. To this action Mrs. Wilkinson, one of the parties interested in the fund, was not a party; but an order was made appointing one of the parties to the action to represent the testator's next of kin, of whom Mrs. Wilkinson was one; but she had an interest distinct from that of the other next of kin. The will was, however, construed in the action so constituted, and Mrs. Wilkinson and her husband had full knowledge of the proceedings, and received and accepted, without objection, some £2,000 which was paid to them, in pursuance of such construction, and the husband wrote expressing his satisfaction with the decision, and deprecating any appeal therefrom by other parties. His wife having subsequently died, and he having obtained administration of her estate, instituted the present action for the construction of the same will, contending that his wife was not bound by the former decision, as she was not a party, nor adequately represented therein by the person appointed to represent the testator's next of kin. Chitty, J., however,