

# The Ontario Weekly Notes

Vol. IV.

TORONTO, JUNE 6, 1913.

No. 38

## APPELLATE DIVISION.

MAY 28TH, 1913.

NATIONAL TRUST CO. v. BRANTFORD STREET R.W. CO.

*Mortgage—Security for Bonds of Railway Company—Default—  
Payment of Interest pendente Lite—Possession—Receiver—  
Taxes—New Trial—Costs.*

Appeal by the plaintiffs from the judgment of KELLY, J., 3 O.W.N. 1615.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, SUTHERLAND, and LEITCH, JJ.

J. A. Paterson, K.C., for the plaintiffs.

S. C. Smoke, K.C., for the defendants.

THE COURT set aside the judgment dismissing the action, and directed a new trial. Costs of the former trial and of this appeal to be in the discretion of the Judge at the new trial.

MAY 29TH, 1913.

SCULLY v. RYCKMAN.

*Money Lent—Action to Recover—Conflict of Evidence—Credibility of Witnesses—Finding of Fact of Trial Judge—Documentary Evidence—Appeal.*

Appeal by the defendant from the judgment of LENNOX, J., ante 850, in favour of the plaintiff for the recovery of \$2,000 and interest.

The action was brought for \$2,250 and interest, but the trial Judge found against the claim for \$250; and as to that the plaintiff did not appeal.