

Court to sell subject to a reserved bid. It is a means to protect parties in such matters from having their interests sacrificed; and experience tells us that conditions surrounding a case like the present—a property like this—particularly call for a reasonable date for sale; and it is particularly desirable that the best terms be realised upon such peculiar property as this, inasmuch as the security is of such variable nature; and the more variable the security the more is the need of the protection of the Court to prevent the sacrifice of the property.

We have reason to be aware of the advantage of adopting the policy of protection by the Court, in a recent case that was satisfactorily disposed of in this way, viz., *Re Imperial Pulp Mills Co.*, where a stay of proceedings was asked for until an inspection could be made by contemplating purchasers, and where reserved bids were fixed. On, I think, two occasions at least, the sale was advertised; but the course taken by the Court, of maintaining the reserved bid and giving ample opportunity for it being reached, resulted ultimately in the reserved bid being reached, and there was a successful sale of the property.

It may be that if, at the sale, the reserved bid should prove abortive, later on, if circumstances should so demand, another policy may be prescribed.

Mr. Osler, for the respondents, offered, as an argument against a reserved bid, to give to the Court an undertaking, an unconditional undertaking, that the respondents would, when this property was offered for sale, bid a sum equal to \$210,000 and interest; but we are of opinion that we could not accept that undertaking in lieu of the adoption of the safeguard provided by the practice of the Court—a reserved bid. That undertaking, however, may prove of service to the parties concerned. It will also be incorporated in the order.

We think that the appellants are entitled to the costs of this appeal and of the motion below before Mr. Justice Britton.

MARCH 8TH, 1913.

*JOHNSTONE v. JOHNSTONE.

Gift—Evidence—Onus—Failure to Satisfy—Money Deposited for Safekeeping—Confidential Relationship—Finding of Fact—Appeal.

Appeal by the defendant from the judgment of BARRON, Co. C.J., in favour of the plaintiff, in an action in the County Court

*To be reported in the Ontario Law Reports.