

the meantime at the rate of 6 per cent., payable semi-annually in each year until payment of the principal. Proposing investors were assured that not only were all the assets and property of the Dominion Copper Company pledged for payment of the principal and interest in respect of such bonds as they might acquire, and for that purpose were vested in the defendants, but that a method was provided whereby at certain periods during the currency of such bonds an opportunity was afforded them of anticipating the time fixed for repayment of the principal moneys.

The provision in question is contained in sec. 12 of art. II. . . . Briefly, its effect is that the Dominion Copper Company are, at specified times between the date of the investment and the 1st June, 1914, to pay to the defendants all their surplus profits, less certain deductions, and the moneys so paid "shall be applied to the *retirement* of bonds of the company issued hereunder and secured hereby, and *for that purpose only* as follows"—and then follow two sub-sections of sec. 12, which are the occasion of the chief controversy in this action. There has been much argument as to the meaning and effect of these sub-sections, and especially as to the meaning of the words "and from the bonds offered to it shall purchase these bonds which are offered to it at the lowest price, not, however, exceeding the par value of such bonds . . ." which occur in the first, and the words "if during the prescribed period sufficient . . . bonds are not offered to exhaust said fund at less than par, then and in that event said trustee shall . . . give notice that certain bonds, specifying the same by number to be drawn by lot . . . are called for the purpose of investing therein the moneys paid to the trustee . . .," which occur in the second.

It is possible, upon this language, to suggest various supposed contingencies in which it might seem to appear that payment to a bondholder for his bonds of a rate exceeding that offered by another bondholder for his bonds, might be deemed a "purchase at the lowest price." But this language of the instrument was intended for the information and guidance of people of plain, ordinary business understanding, who were to read it in connection with its other provisions; and the meaning which it was intended to convey to persons considering it with a view to investing in the bonds ought reasonably to be that which should be given to it.

It would, I think, be a surprise to a great number of people to be told that the taking over of bonds at nearly 87 per cent.