ROSE v. ROSE—KELLY, J.—MAY 22.

Promissory Note—Price of Work Done—Excessive Charge—Acceptance of—Renewal of Note—Action on Renewal—Defence—Failure to Establish.]—Action on a promissory note, alleged by the plaintiffs to have been given for a balance due by the defendant for printing, for the price of which, after the work was performed (they said), a note was given, which was renewed many times, ending with the note now sued upon. The defendant alleged that the original note was given by way of accommodation only, and that neither it nor any of the renewals had anything to do with the account for printing. He admitted some liability on the printing account, and said that there was a definite contract for part of the work at $250, and that for the balance he was chargeable for its proper value only. Evidence of that value was submitted at the trial, which was held at Toronto, without a jury. KELLY, J., in a written judgment, said that in 1904 the defendant employed the plaintiffs to do printing for him, and made them a payment of $225 on account. The price was not agreed upon. The note was not given as accommodation, but in respect of the printing work referred to. In support of his position, the defendant submitted evidence to shew that the amount of the note was out of all proportion to the value of the work done. He had succeeded in proving that the price charged was greatly in excess of the value of the work; but the original note was given for the balance of the amount the plaintiffs charged against him for the whole work; and, though the charge was excessive, he, without objection, accepted the situation in so far as the giving of the note had that effect. The plaintiffs in strictness were entitled to judgment for the amount sued for and costs. The suggestion that they should take into consideration the excessive charge for the work was not unreasonable. J. J. Maclennan, for the plaintiffs. L. F. Heyd, K.C., for the defendant.