

FIRST DIVISIONAL COURT.

DECEMBER 21ST, 1915.

*TILBURY TOWN GAS CO. LIMITED v. MAPLE CITY OIL AND GAS CO. LIMITED.

Contract—Agreement between Companies for Supply of Natural Gas—Construction—Reserve Fund—Surrender of Gas-leases—Chattel Interest—Validity of Contract—Rule against Perpetuities.

Appeals by both defendants, the Maple City Oil and Gas Company Limited and the Glenwood Natural Gas Company Limited, from the judgment of LENNOX, J., 7 O.W.N. 786.

The appeals were heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

G. Lynch-Staunton, K.C., O. L. Lewis, K.C., and E. Sweet, for the appellant the Maple City Oil and Gas Company Limited.

J. W. Bain, K.C., and Christopher C. Robinson, for the appellant the Glenwood Natural Gas Company Limited.

I. F. Hellmuth, K.C., W. M. Douglass, K.C., and J. G. Kerr, for the plaintiff company, respondent.

HODGINS, J.A., delivering the judgment of the Court, said that he agreed generally with the learned trial Judge in his view of the actions of all parties; but, apart from that, the case raised an important question as to the interpretation of the contract of the 22nd July, 1912, between the plaintiff company and the Maple City company. The key-note to the judgment appealed from is to be found in these words: "I am of opinion that the agreement requires the Maple City company to act so as to secure, as far as possible, a permanent or quasi-permanent source of supply of gas for the plaintiff company." With this conclusion, HODGINS, J.A., said, he was unable to agree. The recitals in the agreement, where wider than the contractual stipulations, could not extend them. The amount of gas to be delivered to the plaintiff company under clause 1 of the contract is to be "to the full extent of their requirements at all times . . . and which gas may be required for supply or marketing or sale by the Tilbury company;" and under clause 3, "sufficient natural gas with at all times sufficient pressure and regularity of delivery required for the purposes from time to time of the Tilbury company."