

# The Ontario Weekly Notes

Vol. II.

TORONTO, DECEMBER 28, 1910.

No. 14.

## COURT OF APPEAL.

DECEMBER 19TH, 1910.

### \*WHICHER v. NATIONAL TRUST CO.

*Contract—Advertisement—Redemption of Bonds—Specific Performance—Mortgage Trust Deed—Breach of Trust—Trustees Acting “Honestly and Reasonably”*—62 Vict. (2) ch. 15, sec. 1 (O.)

Appeal by the plaintiff from the judgment of RIDDELL, J., 19 O.L.R. 605, 1 O.W.N. 130, dismissing the action, which was brought for breach of trust by the defendants as trustees, and (by amendment) for specific performance of a contract which the plaintiff alleged had been made, or damages for breach thereof.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

C. A. Moss, for the plaintiff.

A. W. Anglin, K.C., and R. C. H. Cassels, for the defendants.

MOSS, C.J.O. :—The essential portions of the trust instrument upon the terms of which the plaintiff claims relief in this action are set forth in the judgment of the learned trial Judge. The purpose and object with which it was given by the Dominion Copper Company Limited to the defendants was to set forth to persons who might be desirous of investing in the purchase of first mortgage 6 per cent. gold bonds of which the Dominion Copper Company were proposing to make an issue, the security, terms, and conditions upon which their holdings would be based, and thereby induce favourable consideration of the proposal.

The bonds were to be dated the 1st June, 1905, and be payable in gold or its equivalent on the 1st June, 1915, with interest in

\*This case will be reported in the Ontario Law Reports.