The
Ontario Weekly Notes

Vol. II. TORONTO, JUNE 14, 1911. No. 38.

COURT OF APPEAL.

MAY 31ST, 1911.

RAY v. WILLSON.

Promissory Note—Incomplete Instrument—Delivery—Holder in Due Course—Bills of Exchange Act, secs. 31, 32—*Fraud —Suspicion—Duty to Inquire—Ratification—Estoppel.*

Appeal by the plaintiffs from the judgment of CLUTE, J., 1 O.W.N. 1005, dismissing their action to recover $1,004.98 alleged to be due by the defendant on a promissory note given by him to one John Thompson by whom it was endorsed over to the plaintiffs.

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

J. Bicknell, K.C., and M. L. Gordon, for the plaintiffs.

H. E. Choppin, for the defendant.

MACLAREN, J.A.:—This is a most unsatisfactory case. The only witnesses examined were the two plaintiffs and the defendant, each on his own behalf. One of the former was merely called to formally prove the signature of the payee as endorser. The evidence of the other plaintiff and of the defendant are both self-contradictory, and unsatisfactory, and to add to the confusion the latter was examined *de bene esse* at his home in Newmarket some days before the trial, so that we have not the benefit of observation by the trial Judge as to his manner, demeanour and condition.

The trial Judge took special pains to get at the real facts of the case and adjourned the trial until the afternoon, in order that the books of the plaintiffs, who are private bankers at Fort William, might be produced. He found upon the evidence that the defendant had signed his name upon a blank promissory note form and had delivered it to one John Thompson, not that