

the costs of so much of the appeal as relates to him being costs to defendants in any event. But if the husband plaintiff is willing to accept \$400, which has been already offered by defendants, and the latter are still prepared to pay that sum, the judgment may be entered accordingly, and in that case this branch of the appeal will also be dismissed with costs.

JUNE 29TH, 1906.

C.A.

ONTARIO BANK v. O'REILLY.

Warehouse Receipts — Partnership — Banks and Banking — Fraud — Misrepresentations — Bank Act — Liability of Partners — Bankruptcy and Insolvency — Promissory Notes — Extinguishment of Debt — Securities — Release — Bona Fides.

Appeal by plaintiffs from judgment of MEREDITH, J., at the trial, dismissing the action.

Plaintiffs' claim was to recover from defendants, or some of them, as members of a partnership carrying on at Ottawa the business of warehousemen, under the name of "The Ottawa Cold Storage and Freezing Co.," the value of a large quantity of eggs, butter, and cheese.

The statement of claim alleged, in substance, that defendants the Ottawa Cold Storage and Freezing Co. issued certain warehouse receipts to defendant James A. MacCullough, whereby they acknowledged the receipt on his account of the goods mentioned in the receipts, and acknowledged the value of the goods to be in the aggregate \$39,715; that MacCullough assigned and indorsed the warehouse receipts to plaintiffs, in consideration of moneys lent and advanced to the amount of \$33,452.30, including interest; that plaintiffs duly demanded the delivery of the goods, but, except to the extent of \$5,383.03, defendants neglected and refused to deliver the same; that (in the alternative) the defendant company, when the warehouse receipts were offered to plaintiffs by way of security for the advances, falsely and fraudulently represented that the quantity of goods mentioned in