

on the part of the plaintiffs." They also made a detailed assessment of damages, stating their reason for moderating the plaintiffs' claim in some particulars.

The charge was not misleading; and it followed that the plaintiffs were entitled to judgment, unless, instead of sending the jury back to answer questions, the Judge was bound to accept the foreman's statement as equivalent to the finding of the jury. There was nothing to suggest that the other jurors indicated their concurrence in that statement; and, unless the Judge had been very sure that it represented the considered opinion of the jury, he could not have accepted it. Instead of accepting it, he adopted what was said in *Gray v. Wabash R.R. Co.* (1916), 35 O.L.R. 510, 515, to be the better course—he "made plain to the jury the meaning attributed to the foreman's statement . . . and how it seemed to him to conflict with their written verdict; and . . . sent them back to consider the matter, and to alter their written verdict, if it were proper to do so."

The appeal should be dismissed.

LENNOX, J., was of the same opinion, for reasons stated in writing.

MACLAREN and FERGUSON, JJ.A., agreed in the result.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

DECEMBER 7TH, 1917.

*APPELBE v. WINDSOR SECURITY CO. OF CANADA
LIMITED.

Mortgage—Action for Foreclosure—Mortgage Made in 1915—Renewal of Extension of Mortgage Made in 1911—Interest and Taxes not in Arrear—Principal Overdue—Mortgagors and Purchasers Relief Act, 1915, 5 Geo. V. ch. 22, sec. 2 (1)—Sec. 4 as Amended by 6 Geo. V. ch. 27, sec. 1.

Appeal by the plaintiff from the order of SUTHERLAND, J., in Chambers, ante 139.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.