if some protection—but of what nature they do not say—had been provided. As I have said, no such case was made on the pleadings, nor was there any evidence to support it; and the shorthand notes of the proceedings at the trial indicate clearly that such a case was not presented by the appellant's counsel; and the learned Judge, in my opinion, properly directed that judgment should be entered for the respondent.

Having come to this conclusion, it is unnecessary to decide whether there was any evidence to go to the jury; but, however that may be, it is certain that, if there was any, it was of the slimmest character.

Appeal dismissed with costs.

DECEMBER 7TH, 1914.

*ROSE v. ROSE.

Trusts and Trustees—Shares in Commercial Company Held by Trustee for Beneficiaries—Control of Company—Issue of New Shares—Purchase by Trustee for himself—Loss of Control — Depreciation in Value — Removal of Trustee—Conflict between Interest and Duty—Declaration of Trust with Respect to Shares Acquired by Trustee.

Appeal by the plaintiff from the judgment of BOYD, C., at the trial, sitting without a jury, dismissing the action, which was brought to remove the defendant from his position as trustee of certain shares of the capital stock of the Hunter Rose Company Limited, a commercial company, and to declare the defendant a trustee for the beneficiaries under the will of George Maclean Rose of 115 shares of the capital stock of the company which were allotted to the defendant by the directors of the company, subject to a lien on those shares for the amount paid by him to the company for them. Of the shares allotted to the defendant only 74 were in question, that number having been bought by the defendant in July, 1912, at par, from the company.

George Maclean Rose died in 1898, and by his will appointed a trust company executors and trustees. The defendant became trustee in place of the trust company on the 8th September, 1907, upon the terms either of the will or of an unsigned declaration of trust prepared at the time of his accession to the trust.

*To be reported in the Ontario Law Reports.