FALCONBRIDGE, C.J.K.B. SEPTEMBER 10TH, 1918.

TRUSTS AND GUARANTEE CO. LIMITED v. GRAND VALLEY R.W. CO.

Railway—Bondholders—Priorities—Trial of Issue.

An issue to determine the rights of different classes of holders of bonds and coupons.

The issue was tried without a jury at Toronto.

W. S. Brewster, K.C., for bondholders under a mortgage of 1902 who had not exchanged their bonds.

W. Laidlaw, K.C., for Thomas Dixon (in the same interest.)

A. C. McMaster and J. H. Fraser, for bondholders under 1902 mortgage who had exchanged bonds and taken bonds of 1907, now seeking to be reinstated.

A. W. Ballantyne, for bondholders of 1907 who never had 1902 bonds.

M. H. Ludwig, K.C., for holders of coupons under two bonds, 1902 Brantford Street Railway Company and 1902 Grand Valley Railway Company.

J. R. Roaf, for holders of coupons under bonds of Brantford Street Railway Company.

R. J. McLaughlin, K.C., for the Home Life Assurance Company, who exchanged bonds of 1902 for those of 1907.

FALCONBRIDGE, C.J.K.B., in a written judgment, said that the transaction entered into by W. S. Dinnick and other directors, claiming also to be unsecured creditors of the company to the amount of $100,000, with Verner and Drill, was a most extraordinary not to say an outrageous one. The details of it were before the Court, and they were of so improper a nature as to disentitle Dinnick or any other director who took part in it to rank on the assets of the company as holders of coupons or by any other species of claim.

As to the other 1902 bondholders, who exchanged for 1907 bonds, the evidence was quite clear that they did so on the false and fraudulent representation that all the old bondholders had either exchanged or had agreed to do so; but there was no jurisdiction, under the order directing the trial of the issue, to try this matter nor any questions except those set out in the order. The parties for the disposal of this issue were not all before the Court. Therefore, although the learned Chief Justice had no doubt as to