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## GREEN AND RIDDELL v. FRASER

\*May 6.

\*June 11.

ON APPEAL FROM THE APPELLATE DIVISION OF THE SUPREME  
COURT OF ONTARIO

*Trusts and trustees—Disposition of mining claims held in trust for sale—  
Trustee acting upon decision of majority of interests—Objection by  
minority interests—Conditions of trust agreement.*

APPEAL by the plaintiffs from the judgment of the Appellate Division of the Supreme Court of Ontario (1) allowing the defendant's appeal from the judgment of Fisher J.A. (1) holding that the plaintiffs were each entitled to recover from the defendant the sum of \$4,956.20 claimed against the defendant as the plaintiffs' trustee under a certain agreement. By the judgment of the Appellate Division (1) the plaintiffs' action was dismissed.

After hearing argument of counsel, the Court reserved judgment, and on a subsequent day delivered judgment dismissing the appeal with costs. Written reasons were delivered by Duff J., with whom the other members of the Court concurred, in which he expressed entire concurrence with the view of Middleton J.A. (2) as to the effect of the conditions subject to which the defendant was to have full power to deal with the claims, and agreed with Middleton J.A. that the defendant "was well advised" that his duty was to act upon the decision of the majority of interests to accept the offer made by the holders of the option.

*Appeal dismissed with costs.*

*R. S. Robertson K.C.* and *J. J. O'Connor* for the appellants.

*T. N. Phelan K.C.* for the respondent.

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\*PRESENT:—Anglin C.J.C. and Duff, Newcombe, Lamont and Smith JJ.

(1) 65 Ont. L.R. 90.

(2) 65 Ont. L.R. 90, at 108-110.