

CLUTE, J.

FEBRUARY 5TH, 1919.

C. C. ROBBINS INCORPORATED v. ST. THOMAS
PACKING CO.

Company—Extra Provincial Corporation—Extra Provincial Corporations Act, R.S.O. 1914 ch. 179, secs. 7, 16—Action Brought by Unlicensed Company—License Obtained pendente Lite—Effect of—Warehousemen—Negligence—Loss of Goods Stored—Findings of Trial Judge—Damages.

Action for damages for the loss of 95,000 lbs. of fish stored with the defendants, owing, as the plaintiffs alleged, to the negligence of the defendants.

The action was tried without a jury at St. Thomas.

John Jennings, for the plaintiffs.

O. L. Lewis, K.C., for the defendants.

CLUTE, J., in a written judgment, said that the question was, whether the fish stored were injured in such a way as to entitle the plaintiffs to recover the value, or any part thereof, from the defendants.

The learned Judge, after reviewing the evidence, found that the injury to the fish and their depreciation in value and loss to the plaintiffs was owing entirely to the conditions in the defendants' storehouse and the failure of the defendants to keep the temperature low enough.

The defendants contended that the fact that the plaintiffs, an extra provincial corporation, had obtained no license under the Ontario Extra Provincial Corporations Act, R.S.O. 1914 ch. 179, was a bar to the action.

The action was begun in 1918 or 1919, and the trial was begun on the 18th and 19th March, 1919. The evidence was then taken; but the further trial was adjourned to give the plaintiffs an opportunity to apply for a license.

A license was granted on the 16th January, 1920, and was brought before the Court on the 28th January, 1920, after which argument was heard.

Section 7 of the Act prohibits the carrying on of business without a license. Section 16 (1) imposes a penalty for carrying on business without a license, and declares that so long as an extra provincial corporation "remains unlicensed it shall not be capable of maintaining any action or other proceeding in any Court in Ontario in respect of any contract made in whole or in part within Ontario in the course of or in connection with busi-