

the plaintiff from prosecuting this action in its present form: *Coxon v. Gorst*, [1891] 2 Ch. 73. But the assets were in this Province, and so were the trustees in whom they were vested; and, therefore, it was open for any creditor of or any one who held the status of shareholder in the defunct company to have the assets administered here: *Lindsay Petroleum Co. v. Hurd* (1874), L.R. 5 P.C. 221; *Ewing v. Orr Ewing* (1883), 9 App. Cas. 34.

During the argument both counsel assented to the proposition that the company must now be treated as non-existent owing to the Dakota decree of dissolution. That disposed of the present case, though it did not prevent recourse being had to what was practically administration.

The learned Justice of Appeal, however, agreed with the result on the facts to which the other members of the Court had come, and that the appeal should be allowed with costs and the action dismissed without costs.

MEREDITH, C.J.O., agreed with the views of both HODGINS, J.A., and FERGUSON, J.A.

Appeal allowed.

FIRST DIVISIONAL COURT.

DECEMBER 19TH, 1919.

*GETTY & SCOTT LIMITED v. CANADIAN PACIFIC R. W. CO.

Railway—Carriage of Goods—Conversion—Negligence—Terms of Shipping Order—Damages—Interest—Costs—Mercantile Law Amendment Act, sec. 7(1)—Railway Act of Canada, sec. 345—Judicature Act, sec. 35(3).

Appeal by the plaintiffs and cross-appeal by the defendants from the judgment of MASTEN, J., at the trial, of the 15th April, 1919, in favour of the plaintiffs for the recovery of \$1,477.39 in an action for the conversion of certain goods which the plaintiffs had bought from one J. A. Scott, of Quebec, and which were shipped by the defendants' railway.

The appeals were heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, J.J.A.

M. A. Secord, K.C., for the plaintiffs.

W. N. Tilley, K.C., and J. D. Spence, for the defendants.