

THEIR LORDSHIPS, after hearing counsel for the respective parties, reserved its judgment and, on a subsequent day, dismissed the appeal with costs, the testator's executor and Official Guardian to have out of the estate their solicitor and client costs incurred over and above the party and party costs, to be paid by the appellant.

Appeal dismissed with costs.

FEBRUARY 22ND, 1912.

BENNETT v. HAVELOCK ELECTRIC LIGHT CO.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

S. C. R.

Company—Purchase of Director's Property—Secret Profit.

Appeal from a decision of the Court of Appeal for Ontario, 25 O. L. R. 200, reversing the judgment of a Divisional Court, 21 O. L. R. 120, by which the judgment at the trial dismissing the action, was reversed.

Mathieson, a resident of the village of Havelock, purchased the only water power in the village capable of producing electric power, for \$300. He offered it to the municipal council, or any company, at the same price, if either would undertake to establish a system of electric lighting and electric power, but could not induce any one to do so. He then associated himself with four other persons and a company was formed, the five pledging their own credit for the necessary funds. Mathieson sold the water power to the company for \$5,000, which he divided with his four associates.

Bennett and another shareholder in the company brought action to have the sale set aside, and an account taken of the secret profit made by the five. His action was dismissed by the trial Judge, but maintained by the Divisional Court, where judgment was entered against the four defendants, Mathieson being discharged from liability, for \$1,000 each. The Court of Appeal reversed the latter judgment, and the action stood dismissed.