

process of reconstruction—the building was pulled down, and this apparatus was reduced to the condition of scrap iron, being entirely broken and smashed to pieces. The defendant corporation, on the 3rd December, notified the plaintiff company that the apparatus had been removed from the building, and requested the company to remove it from the defendant corporation's premises within 10 days. The plaintiff company found the apparatus in the condition of a heap of junk in the waterworks yard. This action was then brought to recover the value of the economiser plant destroyed and \$1,370, the amount to be paid for the auxiliary plant and equipment. The defendant corporation paid into Court the amount claimed for the auxiliary plant, less \$135 for the cost of removing the fuel economiser. At the trial it appeared that some item had been omitted in making up the cost of the auxiliary plant, and an amendment increasing the amount due in respect of it to \$1,480.50, was allowed. The whole question in issue at the trial was the liability of the defendant corporation with regard to the economiser plant. MIDDLETON, J., who tried the action without a jury, said that it appeared to have been assumed by the civic officials that the economiser plant had been abandoned by the company as worthless; but that assumption was unfounded in fact, and there was no right to remove and destroy the apparatus without first giving reasonable notice to the owner. The obligation of the defendant corporation would not be less than that of a gratuitous bailee. The application was to keep, without gross negligence, using such care as an ordinarily prudent man would of his own property. There could be no justification for the active destruction and conversion of the property into scrap metal. On the whole, having regard to all the circumstances, upon this head the plaintiff company should recover \$1,250; the scrap resulting from the destruction of the apparatus to become the property of the defendant corporation. Judgment for \$1,480.50, the amount due upon the first item, and \$1,250 on the second, with costs, and the money in Court will be paid out to the plaintiff company on account of this recovery. J. H. Moss, K.C., for the plaintiff company. C. M. Colquhoun, for the defendant corporation.

RE MOISSE—LENNOX, J., IN CHAMBERS—JUNE 22.

Settled Estates Act—Money in Court—Payment out to Executors to be Applied according to Trusts of Will.—Motion by the Canada Trust Company, executors of the will of William Moisse, deceased, for payment out of Court of moneys paid in