

MIDDLETON, J., IN CHAMBERS.

MARCH 25TH, 1915.

## RE MOTOR STREET CLEANING CO.

*Company—Winding-up—Sale of Machinery to Company before Winding-up—Property not to Pass till Payment—Claim of Unpaid Creditors to Possession and Ownership of Machinery—Order of Judge on Appeal from Ruling of Master—Refusal of Leave for Further Appeal.*

Motion by the liquidator of the Motor Street Cleaning Company, in course of winding-up under the Dominion Winding-up Act, for leave to appeal from an order made by MEREDITH, C.J. C.P., in the Weekly Court, on the 18th March, 1915, allowing an appeal by the Canadian General Electric Company from the ruling of the Local Master at Windsor against the claim of that company to possession of certain machinery sold by that company to the company in liquidation or to a lien upon the machinery for the purchase-price thereof.

J. W. Langmuir, for the liquidator.

John A. Paterson, K.C., for the Canadian General Electric Company.

MIDDLETON, J.:—The case is one devoid of merit, and the learned Chief Justice, if I may be pardoned for saying so, is so clearly right that there is no reasonable ground for appeal.

The company received the goods on the terms of the written contract, that the property therein should not pass until payment made. There was also an agreement that possession should not be given till payment made, but possession was obtained through an error on the part of the vendors' clerk, who ought to have attached the bill of lading to the draft. This cannot deprive the vendors of the title, and the alternative suggestion that the clause in the agreement ought not to bind the company, because the president did not read it before signing, is equally untenable. In his order the president had said that the transaction was to be cash, and the intention was that the purchaser should have no right till payment, and he asked the vendors to prepare any kind of document they thought necessary for their protection. They did so—he signed—and is bound. He could only obtain relief on restoring the vendors to the possession and ownership of the goods, and this is all that is sought.

Corporations, it has often been demonstrated, have neither soul nor conscience. It is the duty of the Courts to see that this defect does not attach to the liquidator.

Motion refused with costs.