

RE CURRAN—MIDDLETON, J.—MARCH 26.

Trusts and Trustees—Failure of Trustees to Agree—Removal of Trustees and Appointment of Trust Company in their Stead—Disposition of Rentals of Trust Property—Costs.]—Motion by Alfred Curran for an order directing that rents of trust property be paid to the executors and trustees under a will, and appointing the National Trust Company trustees in lieu of the present trustees. The motion was heard in the Weekly Court, Toronto. MIDDLETON, J., in a written judgment, said that the right and duty of the trustees was plain from an order made by RIDDELL, J.; and, as the trustees could not agree, the best thing to do was to remove them and appoint the National Trust Company in their stead. The order might provide that any person beneficially entitled should be allowed to remain in possession so long as he or she paid the trustees enough to meet the expenses of carrying the property and preserving it for the remaindermen. Costs should be paid out of the rentals, so that each would bear his share. W. D. McPherson, K.C., for the applicant. W. D. M. Shorey, for Walter and A. E. Curran and Mrs. Spice.

RE SARNIA METAL PRODUCTS CO. LIMITED—KELLY, J.—MARCH 26.

Sale of Goods—Reliance of Buyer on Skill of Seller—Machine Required for Specific Purpose to Knowledge of Seller—Machine Found Unworkable—Right to Reject—Waiver—Return of Machine—Return “on Consignment”—Evidence—Findings of Master—Appeal—Disallowance of Claim of Creditor against Insolvent Estate in Winding-up Matter.]—Appeal by the A. R. Williams Machinery Company Limited from a report of the Local Master at Sarnia stating that he had disallowed all of the appellants' claim of \$4,292.49, filed with the liquidator of the Sarnia company in a winding-up, except \$300. The appeal was heard in the Weekly Court, Toronto. KELLY, J., in a written judgment, said that the appellants' claim was made up of 9 distinct items, the principal one being \$2,772, the price of a machine purchased by and delivered to the Sarnia company and afterwards returned to the appellants as unfit for the purposes required. The appellants contended that the machine was taken in by them on consignment. The Master found that the machine did not work satisfactorily nor at all, and was valueless to the Sarnia company, who complained to the appellants without result; that the machine was defective; and that this was notified to the appellants promptly. One ground of the appellants' objection to the Master's findings was the admission in evidence of statements made by two persons (S. and J.) to other persons who