

Theobald on Wills, 5th ed., p. 322, and cases there cited.
Haggart, K.C., for executors. *Colin Campbell*, K.C., A.-G., and
Crawford, K.C., for Presbyterian Church.

Province of British Columbia.

SUPREME COURT.

Hunter, C.J.] CREWE v. MOTTERSHAW. [June 2.
*Trespass—Adjoining owners—Escape of fire—Maintaining dangerous
 thing—Liability for—Negligence immaterial.*

Action for damages. Plaintiff and defendant were adjoining land owners and a fire started in brush and fallen timber by the defendant for the purpose of clearing his land, spread on to the plaintiff's land.

Held, applying the principle of *Rylands v. Fletcher* (1868) L.R. 3 H.L. 330, that the defendant maintained the fire at his own risk and was responsible for the damage caused by it. Judgment for plaintiff for \$300.

Costs on County Court scale allowed, as action should have been brought there.

J. H. Simpson, for plaintiff. *F. McB. Young*, for defendant.

Full Court.] IN RE OKELL MORRIS Co. [June 26.
*Winding-up—Right of creditor to ex debito justitiae—No available assets—
 Examination of officers.*

Appeal from an order of HUNTER, C.J., dismissing a winding-up petition.

Held, the Court has a discretion to grant or withhold a winding-up order under s. 9 of R.S.C., 1886, c. 129.

Re Maple Leaf Dairy Co. (1901) 2 O.L.R. 590, followed.

A company will not be compulsorily wound-up at the instance of unsecured creditors where it is shewn that nothing can be gained by a winding-up, as for example, where there would not be any assets to pay liquidation expenses.

On the hearing of a winding-up petition which was dismissed, the petitioner did not avail himself of an opportunity to examine the officers of the company.

Held, on appeal, that it was too late then to grant an inquiry.

Peters, K.C., for appellant. *Duff*, K.C., and *F. Higgins*, for respondents.