

RE NESBIT—SUTHERLAND, J.—OCT. 18.

*Executor—Compensation for Services—Quantum.*—Appeal by the Official Guardian, representing Mary Murphy, an infant, from an order of the Judge of the Surrogate Court of the County of Lincoln, made on the passing of the accounts of the executor of the will of John Nesbit, deceased, in so far as it allowed \$300 to the executor as commission, on the ground that the amount was excessive. There was also an appeal as to costs, which was not pressed. The estate consisted chiefly of real estate; and the only money realised by the executor was \$18.75 from the sale of some personal property. The executor disbursed \$694.94, most of which he advanced out of his own money. By the will, all the real estate (a farm) was given to the testator's brother for life; a provision was made for his sister residing upon the farm and being maintained out of its products. At the death of the brother, the whole of the estate was to go to the testator's niece, the infant. The appeal was heard in the Weekly Court at Toronto. The learned Judge, in a written judgment, said that, having regard to the estate as a whole and the small amount of the personal estate, and the short period of time (about a year) during which the executor had the management of the estate, he was of opinion that the sum allowed to the executor was excessive. A commission of \$50 and an allowance of \$75 for care, pains, and trouble would be ample. Appeal allowed and compensation reduced to \$125. Reference, among other cases, to *Re McIntyre* (1904), 7 O.L.R. 548; *Re Godchere Estate* (1913), 5 O.W.N. 625; and also to *Widdifield's Law and Practice as to Executors' Accounts* (1916), p. 221 et seq. The Official Guardian to have his costs of the appeal out of the estate; otherwise no order as to costs. J. Hoskin, K.C., for the Official Guardian. A. C. Kingstone, for the executor.

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McARTHUR IRWIN CO. LIMITED v. GAUSBY—SUTHERLAND, J.—  
OCT. 19.

*Title to Goods—Sale of Goods—Delivery of Goods in Excess of Requirements of Vendee—Bailment or Sale—Insolvency of Vendee—Contest between Vendor and Assignee for Benefit of Creditors of Vendee.*—The plaintiffs sued the defendant as the assignee for the benefit of creditors of the Rathbun Match Company Limited to recover the value of 6,648 lbs. of chlorate of potash claimed by the plaintiffs as their property, and said to have been wrongfully