

which was extended by resolution of the council, and again informally extended for a further period. The contract provided that, if the contractor neglected or refused to prosecute the work to the engineer's satisfaction, the corporation might employ and place on the work such force men and teams and procure such materials as might be deemed necessary to complete the work by the day named for the completion, and charge the cost thereof to the plaintiff; and by the specifications, which were made part of the contract, the same powers were conferred without any restriction as to time. The work not having been proceeded with to the engineer's satisfaction, the corporation, before the expiration of the second extension of time, exercised the powers above conferred.

Held, that, under the contract, the power conferred could only be exercised during the time for the completion of the work or its extension thereof, but under the specifications, even after such time; and, therefore, even if they could not avail themselves of the second extension as granted informally, the powers would be properly exercised under the specifications.

A claim by the plaintiff that the defendants caused the amount stipulated for the payment of the work to be exceeded by the employment of more men, etc., and the payment of larger wages than was necessary, was found against him.

Wallace Nesbitt and Morton for the plaintiff.
Clement for the defendants.

Practice.

ROBERTSON, J.]

[March 19.

IN RE HAWKINS.

Costs—Trusts and trustees—Discharge of trustee—Petition—Passing accounts—Inquiry as to liability of trustee.

Upon a petition by a surviving trustee under a will to be discharged from the trusteeship, it appeared that a trust fund created by the will had become impaired, and a reference was directed to take an account of the dealings of the trustees with the fund. The Master reported that a portion of the fund had been lost in the hands of the petitioner's deceased co-trustee, and that the estate of the latter was liable therefor. Upon appeal, the report was sent back to be amended by charging the petitioner with the portion of the fund so lost by his co-trustee.

Held, that the inquiry as to the petitioner's liability having resulted unfavourably to him, he must bear the costs of it; but was entitled to receive out of the fund his costs of the petition and of bringing in his accounts; and, upon payment of the amount found due by him and of the costs awarded to be paid by him, to his discharge.

Hoyles, Q.C., for the petitioner.
Swabey for the adult respondents.
A. J. Boyd for the infant respondents.