HARRY ALLEN (PETITIONER).....APPELLANT ;

AND

CHARLES A. HANSON *et al.* (LIQUIDATORS)..... .... } RESPONDENTS ;

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*May 16.

*Dec. 11.

In re THE SCOTTISH CANADIAN ASBESTOS COMPANY (LIMITED)

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR LOWER CANADA (APPEAL SIDE).

Constitutional Law—Winding-up act, R. S. C. ch. 129 sec. 3—Foreign corporations—Liquidation.

Sec. 3 of "The Winding-up Act," Revised Statutes of Canada ch. 129 which provides that the Act applies to*** incorporated trading companies doing business in Canada wheresoever incorporated is *intra vires* of the Parliament of Canada.

2. A Winding-up order by a Canadian court in the matter of a Scotch company incorporated under the Imperial Winding-up Acts doing business in Canada, and having assets and owing debts in Canada, which order was made upon the petition of a Canadian creditor with the consent of the liquidator previously appointed by the Court in Scotland as ancillary to the winding-up proceedings there, is a valid order under the said Winding-up Act of the Dominion. *Merchants Bank of Halifax* v. *Gillespie*, (10 Can. S. C. R. 312.) distinguished.

APPEAL from a judgment of the Court of Queen's Bench for Lower Canada (appeal side) (1), affirming a judgment of the Superior Court, by which the respondents were appointed liquidators of the Scottish Canadian Asbestos Company (limited) under the provisions of the Dominion Winding-up Act, ch. 129 of the Revised Statutes of Canada, and the appellant's motion

PRESENT.—Sir W. J. Ritchie C. J. and Strong, Fournier, Gwynne and Patterson JJ.

(1) 16 Q.L.R. 79 ; S.C. 13 Legal News, 129.

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to have the order set aside and to dissolve a meeting of creditors called under the statute, was rejected.

The Scottish Canadian Asbestos Company (limited), a Joint Stock Company, incorporated under the acts of Imperial Parliament of 1862 and 1886, having its head office in the City of Glasgow, Scotland, its principal business having been carried on at Arthabaska, in Canada, where its chief property and interests are situated, became insolvent, and proceedings were taken in Scotland for the winding-up of its affairs, and a liquidator was appointed.

Upon a petition made by the firm of Lucke & Mitchell, creditors of the company, in which the Scottish liquidator joined, the Superior Court in and for the district of Arthabaska, Mr. Justice Billy presiding, made a winding-up order under the Canadian Statute, R.S.C. ch. 129, and the respondents were appointed liquidators. A motion was then made by the present appellant, a large shareholder, to set aside the said Winding-up order and also to dissolve a meeting of creditors called under the statute. The motion was in the following terms, viz.:—

"That inasmuch as the said company was incorporated under the provisions of the Joint Stock Companies' Act of the United Kingdom of Great Britain and Ireland, and is subject to the provisions of the said Imperial Act as regards its status, powers, and franchises, and the rights and obligations of shareholders and contributories, and as regards all matters respecting its corporate capacity; and inasmuch as the said company is subject to the laws of the United Kingdom of Great Britain and Ireland, as regards its liquidation; and inasmuch as the Winding-up Act of the Dominion of Canada does not apply to the said company; and inasmuch as the said Winding-up Act, and all legislation of the Parliament of the

Dominion of Canada, in so far as it relates or applies to the liquidation of the said company, is *ultra vires* of the said Parliament of the Dominion of Canada; that the present meeting of creditors be dissolved, and that the winding-up order and all proceedings had herein be set aside and declared irregular and of no effect, saving to the said company and its shareholders and creditors all rights to which they may be by law entitled."

This motion was rejected. The appellant thereupon applied for and obtained leave to appeal to the Court of Queen's Bench, and that court by a majority affirmed the judgments appealed from. Thereupon the appellant obtained from the Registrar of the Supreme Court sitting as judge in chambers leave to appeal as required by sec. 76 of the Winding-up Act, and also the necessary order approving the security for costs under sec. 46 of the Supreme and Exchequer Court Act.

The question raised on this appeal is: Whether a winding-up order under the Canadian Act can be made against a company incorporated under the Imperial acts having assets in Canada, and whether the legislation of the Canadian Parliament providing therefor is within the powers of the said Parliament?

Mr. Smith for appellant.

Trenholme Q.C. for respondents.

The cases cited by counsel are reviewed in the judgments hereinafter given and in the report of the case in the court below (1).

SIR W. J. RITCHIE C.J.—[After stating the facts of the case his Lordship proceeded as follows:—]

The following cases bear on the question raised in this case:

(1) 16 Q. L. R. 79.

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In re Matheson Brothers, limited (1) The head note is:

The court has jurisdiction under section 199 of the Companies Act, 1862, to wind up an unregistered joint stock company, formed and having its principal place of business in New Zealand, but having a branch office, agents, assets and liabilities in England.

The pendency of a foreign liquidation does not affect the jurisdiction of the court to make a winding-up order in respect of the company under such liquidation although the court will, as a matter of international comity, have regard to the order of the foreign court.

It being alleged that proceedings to wind up the company were pending in New Zealand the court, in order to secure the English assets until proceedings should be taken by the New Zealand liquidators to make them available for the English creditors *pari passu* with those in New Zealand, sanctioned the acceptance of an undertaking by the solicitor for the English agent of the company that the English assets should remain *in statu quo* until the further order of the court.

In re Commercial Bank of India [L. R. 6 Eq. 517.] approved.

* * * * * *

Kay J.—I think that the court has jurisdiction to make a winding-up order upon a petition of this kind, otherwise there might be no means by which the English creditors could obtain payment of their debts (2).

* * * * *

And at page 230:

Had it not been then for the fact of a winding-up order existing in New Zealand this court would in my opinion have had jurisdiction to wind up this New Zealand company having an office and carrying on part of its business here as an unregistered company within the terms of the 199th section.

This being the case, what is the effect of the winding-up order which it is said has been made in New Zealand? This court, upon principles of international comity, would no doubt have great regard to that winding-up order and would be influenced thereby, but the question of jurisdiction is a different question and the mere existence of a winding-up order made by a foreign court does not take away the right of the courts of this country to make a winding-up order here, though it would, no doubt, exercise an influence upon this court in making the order.

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(1) 27 Ch. D. 225. (2) Ibid. p. 228.

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Having, therefore, jurisdiction to make a winding-up order I feel myself at liberty to sanction the acceptance of the undertaking offered by Mr. Hart. I have said thus much as to my own opinion upon the effect of the act. But there is the authority of *In re Commercial Bank of India* [L. R. 6 Eq. 517], in which counsel of eminence were engaged on both sides, Mr. Southgate, Q.C., Mr. Bristowe, and Mr. (now Lord Justice) Lindley being for the petitioners, and Mr. (now Lord Justice) Baggallay and Mr. Kekewich for the official liquidator of the new company. There a joint stock company formed in India, registered under Indian law, and having its principal place of business in India, with an agent and a branch office in England, was ordered to be wound up under the Act of 1862, and Lord Romilly said (1) "I think I have jurisdiction to make the order; if the company is not wound up here, these persons will not be able to get their money."

Now that case was decided in 1889, and no authority against it has been cited.

In re Commerciat Bank of South Australia (2), a bank incorporated in Australia, carrying on business there, and having a branch office in London with English companies and assets in England, it was held the English court had jurisdiction to make a winding-up order which would be ancillary to a winding-up in Australia. In this case the learned judge said, "if I have control of the proceedings here, I will take care there shall be no conflict between the two courts."

I think there is jurisdiction to make this winding-up order, which would be ancillary to the winding-up in Scotland for the purpose of getting in the Canadian assets and settling a list of the Canadian creditors, as *in re Corsellis* (3), the winding-up in England was ancillary to winding-up in Australia for the same purpose, and there need not be. and should not be any conflict between the two courts.

In the case of the *Merchants Bank* v. *Gillespie* (4), in the view I took of this case, I considered it quite unnecessary to discuss or decide the question as to the extent

(1) L. R. 6 Eq. 519.
(2) 33 Ch. D. 174.
(3) 33 Ch. D. 160.
(4) 10 Can. S. C. R. 312.

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of the power of the Dominion Parliament to pass laws for winding-up or otherwise dealing with foreign insolvent trading companies doing business in the Dominion, because I thought the then winding-up Act 45 Vic. ch. 23, was not intended to apply to a company incorporated under the Imperial Joint Stock Company's Acts, 1862-1867, and I was confirmed in that opinion by the action of the Dominion Parliament in passing the 1st section of the 47 Vic. ch. 39, which repealed the 1st section of 45 Vic. ch. 23, and substituted the 1st section of 47 Vic. in lieu thereof, the only alteration being the addition to the enumeration of the companies to which the 45 Vic. ch. 23 is to apply of the words, "which are doing business in Canada, no matter where incorporated," and "which are insolvent," covering it appeared to me a clear intimation that the 45 Vic. ch. 23, did not so apply. The question now raised in the present case is: Was such addition within the legislative power of the Dominion Parliament, or in other words was such enactment *ultra vires?*

If parliament has legislated respecting strictly foreign corporations, and is not to be considered to be legislating respecting colonial corporations unless they are expressly named, (see *in re Oriental Inland Steam Company* (1), surely it must be said that the Dominion Parliament can in its right to legislate in reference to bankruptcy and insolvency, legislate respecting insolvent companies doing business in Canada, and with reference to property of such companies within its jurisdiction.

Inasmuch then as the Dominion statute declares that the winding-up act now applies to all companies which are doing business in Canada and no matter where incorporated, there can be no doubt of the intention of Parliament to apply the winding-up act to foreign as well as

(1) 9 Ch. App. 560.

domestic incorporated companies, and as I think such an enactment is within the legislative power of the Dominion Parliament, and it being admitted that this company was carrying on its business, and held valuable lands in Canada, and was insolvent, and as the provisions of the English Companies Act, 1862, are held to apply to foreign companies carrying on business in England and are worked out as nearly as may be, or left not worked out as the exigencies of the case dealt with require ; and inasmuch as the greater part of the assets of this company would seem to be in Canada, there is the more reason why the property within the territorial limits of the jurisdiction of the courts of Canada should be dealt with under the provisions of the Canadian act ; in fact it is difficult to see how such property could be dealt with by the English liquidators ; and inasmuch as in this case it appears the liquidators under the English Act are acting in concert with the liquidators under the Canadian act, I can see no reason for supposing that any conflict can possibly arise whereby this stockholder can be in any way damnified ; on the contrary, it appears to me that this is the most satisfactory way by which the company can be wound up and its assets realized for the benefit of the company and all the parties interested.

All the winding-up act, as I understand it, seeks to do in the case of foreign corporations is to protect and regulate the property in Canada and protect the rights of creditors of such corporation upon their property in Canada. It by no means follows that because all the provisions of the act may not be applicable to foreign cases that those portions which are should not be acted on.

The fact that liquidation proceedings have already been taken in Scotland under the Imperial Act, and that the Scotch liquidator acquiesces in the present proceed-

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confirmation de son opinion que l'acte 45 Vic. ch. 23, n'était pas applicable aux procédés soumis à la cour.

Maintenant, si la question pouvait faire difficulté avant l'amendement, cet amendement a-t-il l'effet de la trancher en déclarant que cet acte s'appliquerait aux compagnies faisant des affaires en Canada quelque soit le lieu de leur incorporation? Pour moi, qui ai soutenu dans la cause de *Merchants Bank of Halifax* v. *Gillespie*, que la 45e Vic. ch 23 devait s'appliquer aux compagnies insolvables faisant affaires dans le pays et y possédant des biens, il me semble que cet amendement a eu l'effet de faire disparaître toute difficulté au sujet de l'application de la loi, et que l'on ne doit pas hésiter à la déclarer applicable aux compagnies étrangères. Dans ce cas, il ne resterait à décider que l'unique question soulevée par l'appelant au sujet de la constitutionalité de la loi.

La compagnie dont il s'agit a d'abord été mise en liquidation en Ecosse, et la demande faite pour la soumettre au *Winding up Act* du pays a été faite avec le consentement du liquidateur nommé par la cour en Ecosse, et les liquidateurs nommés ici l'ont été sur la demande des créanciers Canadiens et du liquidateur autorisé en Ecosse.

L'intimé prétend que les procédés adoptés dans cette instance sont soutenus par les autorités et il invoque la cause de la *Commercial Bank of South Australia*, (1). Cité comme autorité par Lindley on Company Law, 1889, (2) comme suit:

> Bank incorporated and carried on business in Australia, not registered here but had a branch office in London. Winding up proceedings were pending in Australia,—North J., made an order but expressed an opinion that the proceedings here should be ancillary to those in Australia, and that the liquidator should only deal with assets in this country. Compare *Matheson Brothers*, Limited, 27 Ch. D. 225, where no order was made.

(1) 33 Ch. D. 174, (2) P. 644.

Lindley est encore cité (1) pour établir que les cours en Angleterre peuvent mettre en liquidation en vertu de l'acte impérial des compagnies coloniales ou étrangères et qu'elles peuvent agir comme auxiliaires des cours coloniales pour les biens situés en Angleterre ; pour quelle raison les cours canadiennes ne pourraient-elles pas en faire autant pour les cours anglaises en ce qui concerne les biens situés en Canada, et surtout comme dans le cas actuel, lorsqu'elles en seraient requises par la cour chargée de la liquidation ? Quoique les tribunaux soient indépendents les uns des autres, ils n'en sont cependant pas moins tenus de prêter le secours de leur autorité pour faire exécuter des lois qui ont pour but de règler des intérêts communs aux citoyens des deux pays.

Mais indépendamment de ce concours pour arriver à la liquidation, je crois que l'action de nos tribunaux seule peut suffir pour arriver à ce but. J'ai développé cette opinion dans la cause du *Merchants Bank of Halifax* v. *Gillespie* (2), et je ne crois pas devoir revenir ici sur ce point.

Quant à la question de savoir si le parlement fédéral avait le droit de passer les *Winding up Acts*, cela me semble ne faire aucune difficulté. La liquidation des sociétés et compagnies insolvables, tout comme les lois de faillites sont clairement du ressort du parlement fédéral. Notre parlement à un pouvoir complet et absolu de légiférer sur ce sujet et n'est nullement dans la dépendance du parlement imperial. Dans les limites de sa jurisdiction son pouvoir est égal à celui du parlement impérial. Cette question a été si souvent décidée qu'il est inutile d'y revenir. C'est un point réglé.

L'argument que l'acte du parlement fédéral est contraire à l'acte impérial et partant nul, est tout-a-

(1) Pp. 912 et 622.

(2) 10 Can. S. C. R. p. 326.

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fait sans fondement. Il n'y a aucun acte du parlement impérial défendant à notre parlement de légiférer sur cette matière ; au contraire, il en existe un, l'acte de l'Amérique Britannique du Nord, qui lui en donne tout spécialement ce pouvoir, cet la sec. 91, s.s. 21 de cet acte.

Pour annuler un acte du parlement fédéral il ne suffirait pas qu'il fut contraire à la loi anglaise,—mais il faudrait qu'il fut contraire à une loi positive rendue obligatoire pour le Canada par disposition expresse, ou par une conséquence nécessaire de cette loi et encore cette nullité n'aurait lieu que pour les parties seulement de cette loi qui serait en contradiction directe à celui du parlement impérial. Le juge Willes dans la cause de *Philips* v. *Eyre* (1) s'exprime ainsi sur cette question :

It was further argued that the Act in question was contrary to the principles of English Law, and therefore void. This is a vague expression, and must mean either contrary to some positive law of England, or to some principle of natural justice, the violation of which would induce the Court to decline giving effect even to the law of a foreign Sovereign state. In the former point of view, it is clear that the repugnancy to English law which avoids a colonial act means repugnancy to an Imperial statute or order made by authority of such statute applicable to the Colony by express words or necessary intendment ; and that, so far as such repugnancy extends, and no further, the Colonial act is void. The 28 & 29 Vict. C. 63, S. 2, enacts that, any Colonial law which is, or shall be, in any respect repugnant to the provisions of any Act of Parliament extending to the Colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the Colony the force and effect of such Act shall be read subject to such Act, order or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Pour faire disparaître tout doute la section 3 du même acte déclare que :—

No Colonial law shall be, or be deemed to have been, void or inoperative on the ground of repugnancy to the law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order or regulation as aforesaid.

(1) L. R. 6 Q. B. 20.

Les actes impériaux concernant la liquidation des compagnies ne s'appliquent pas au Canada et il est de principe que le parlement impérial ne légifère pas sur la propriété située en dehors du Royaume-Uni. Ainsi cette législation ne peut affecter la nôtre qui est parfaitement constitutionnelle et doit avoir son application autant qu'il est possible pour atteindre la liquidation demandée.

Appel renvoyé.

GWYNNE J.—I can add nothing to the judgment of the learned Chief Justice of the Court of Queen's Bench, Sir A. A. Dorion. I entertain no doubt as to the correctness of that judgment, and am of the opinion that the appeal should be dismissed with costs.

PATTERSON J.—The Scottish Canadian Asbestos Co. (limited), was incorporated on the 31st day of July, 1886, under the Imperial Companies' Acts, 1862 to 1886. Its registered office is in Glasgow, but its chief place of business is in the Province of Quebec where it owns real and personal property and has carried on the business of quarrying and working for asbestos.

The company being insolvent an order was made in November, 1888, by the Court of Session in Scotland, that the company be wound up under the provisions of the Companies' Act, and appointing a liquidator. The liquidator, by authority of the Court of Session, appointed the respondents, Hanson Brothers, for the purpose, amongst other things,

for and on behalf of me as liquidator aforesaid, to appear before and to apply to such Courts of Law in Canada aforesaid as my said attorneys and attorney shall deem necessary to have effect given to the order to wind up said company pronounced by the said Lords of Council and Session aforesaid, as also, if need be, to apply for an order

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to wind up said company in Canada, either as auxiliary to the Scotch liquidation or otherwise, or to consent to any such winding up.

The application to the court for leave to appoint the attorneys set out, and the power of attorney recited, that the company had its principal assets in Canada, and that considerable sums of money were due by the company to creditors resident in Canada. Thereupon a petition, in which the Scotch liquidator joined, was presented to the Superior Court in the District of Arthabaska in Quebec, Mr. Justice Billy presiding. A winding-up order was made under the Canadian Statute, (R. S. C. ch. 129), and Messrs. Hanson Brothers were appointed liquidators.

The appellant, who is a large shareholder in the company, moved against that order, and also to dissolve a meeting of creditors called under the statute. That motion was dismissed by Mr. Justice Billy, and his judgment was affirmed on appeal by the Court of Queen's Bench. The present appeal is from that decision.

The grounds of appeal are that the Canadian Winding-up act does not apply to this company, and that in so far as it professes to apply to the company it is *ultra vires* of the Parliament of Canada.

The first point is answered by the express language of the statute which declares, in section 3, that the act applies to incorporated trading companies doing business in Canada, wheresoever incorporated; and (*a*) which are insolvent; or (*b*) which are in liquidation or in process of being wound up, and on petition by any of their shareholders or creditors, assignees or liquidators ask to be brought under the provisions of this act.

This declaration, which was introduced into the Winding-up act after the proceedings in *The Merchants' Bank of Halifax* v. *Gillespie* (1) had been com-

(1) 10 Can. S. C. 312.

menced, though before the judgment of the court was pronounced, alters the law from that which was held by a majority of the court to result from a correct interpretation of the act as it formerly stood, so that we can hold that foreign corporations are within the operation of the act without conflicting with the judgment which declared that they were not within its operation at the earlier date.

The question of *ultra vires* is, however, still undecided in this court, because, although it was advanced in *The Merchants' Bank of Halifax* v. *Gillespie*, (1) and opinions upon it were expressed by two of the learned judges who denied the jurisdiction and by one who affirmed it, it was not pronounced upon by the court.

Two points are made against the existence of the legislative jurisdiction. It is argued that it is conclusively negatived by the Imperial statute, 29 & 30 Vic. ch. 63, which declares, in section 2, that any colonial law which is or shall be in any respect repugnant to the provisions of any act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under the authority of such Act of Parliament, or having in the colony the force and effect of such act, shall be read subject to such act, order or regulation, and shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

To sustain this objection two things are essential. The Imperial Act of Parliament must extend to the Dominion, and the Dominion Winding-up Act must be repugnant to the Imperial Companies' Act.

I do not think the appellant has succeeded in maintaining either of these propositions. The first section of the statute of 29-30 Vic. ch. 63, which is the interpretation clause, declares that an act of parliament or any provision thereof shall, in construing that act, be said to

(1) 10 Can. S. C. R. 312.

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extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any act of parliament.

There are certainly no express words contained in the Companies' Act of 1862, or in any of the amending acts, extending their provisions to Canada, or to any of the provinces comprised in the Dominion, and it is equally difficult to trace in their provisions an intendment that they shall so apply. On the contrary we find the provisions relating to practice and procedure in winding-up proceedings framed with exclusive reference to the British Islands. A distinct instance of this is afforded by section 122 of the act of 1862, which provides for enforcing in any one of the three divisions of the United Kingdom orders made in the courts of any other division, but makes no allusion to enforcing such orders in any colony.

The Companies' Acts, therefore, do not extend to Canada. Nor is there any repugnancy between their provisions and the power now questioned of making a winding-up order by a Canadian court in the matter of an English or Scotch company which does business in Canada, has a place of business here, owes debts here, and has assets here. To hold such an order repugnant to the English acts would be to question the cases, of which there is a consistent series, in which the English courts have made orders to wind up colonial companies, or, as in one case, have asserted the power while refusing, as an exercise of discretion, to make the order. See *In re Union Bank of Calcutta* (1); *in re Commercial Bank of India* (2); *in re Commercial Bank of South Australia* (3); *in re Matheson Brothers* (4); Westlake's Private International Law (5); Thring on

(1) 3 DeG. & S. 253.
(2) L. R. 6 Eq. 517.
(3) 33 Ch. D. 174.
(4) 27 Ch. D. 225.
(5) 2nd ed. sec. 124.

Joint Stock and other companies (1); Lindley on Company Law (2). See also the judgment of my brother Fournier in *Merchants' Bank of Halifax* v. *Gillespie* (3), which is for the most part applicable to this case, and in which I entirely concur.

It is true that our courts cannot exercise with regard to an English company the full extent of the powers conferred by our Winding-up Act. For example, they cannot, by the effect of a winding-up order, affect the operations of the company in England, causing it to cease to carry on its business there, as under section 15 the company must do in this country. But the same difficulty was presented when the English courts were asked to make orders to wind up colonial companies, and was held not to affect the jurisdiction. See particularly the observations of Mr. Justice Kay *in re Matheson Brothers* (4), and of Mr. Justice North *in re Commercial Bank of South Australia* (5).

The fallacy in this particular may perhaps have been contributed to by an idea that an order called a Winding-up order, made in pursuance of an act called a Winding-up Act, must be inoperative if, in its potential effect, it must stop short of winding up or dissolving the company.

The expression usually employed in our statute is "winding up the business of the company," though the phrase "the winding up of the company," is sometimes used, as *e g.* in section 42 (6). The terms are convertible, and the former readily adapts itself to the operation of the order now in question, which is to wind up the business carried on by the company in Canada, though our courts may be as powerless as the English courts find themselves in dealing with colonial

(1) Notes under sec. 199 of the Companies Act, 1862, 5th ed. 302.
(2) 5th ed. 622.
(3) 10 Can. S. C. 312, 328.
(4) 27 Ch. D. 225, 228.
(5) 33 Ch. D. 174, 178.
(6) R. S. C. ch. 129.

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companies, to dissolve the corporation or to administer the assets that are beyond the territorial limits of their jurisdiction.

Some extracts from the company's articles of association have been put in evidence, and an argument against the jurisdiction of the Canadian court has been based on section 125, which reads as follows :—

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If the directors shall pass a resolution recommending the company to be dissolved, and a general meeting shall in pursuance of such recommendation resolve that the company be dissolved, and a second general meeting shall confirm that resolution, then the company shall henceforth subsist and carry on business for the purpose of winding-up its affairs, and its affairs shall be wound up and it shall be dissolved in accordance with and subject to the provisions of "The Companies' Acts, 1862 to 1883," which are and may be applicable in the voluntary winding-up of a company under the same, or the occurrence of an event in which it is provided that a company under the same may be wound up voluntarily.

One has only to read this to see that it cannot affect the present contest. It is a contract among the members of the company, and deals only with a voluntary winding-up which may be brought about in a specified manner. There is no pretence of dictating to the creditors of the company what remedies they may employ or what forum they must resort to to enforce their remedies.

On these grounds, and without thinking it necessary to discuss the recognition of the company by the issue of letters patent in the Province of Quebec, or the effect of the Scotch liquidator being a party to the proceedings here, I am of opinion that the judgment should be affirmed and the appeal dismissed with costs.

Appeal dismissed with costs.

Solicitors for appellant : *MacLaren, Leek, Smith & Smith.*

Solicitors for respondents : *Taylor & Buchan.*