

THE CUSHING SULPHITE-FIBRE } APPELLANTS.
COMPANY AND OTHERS }

1906
*May 8.

AND

GEORGE S. CUSHING AND OTHERS, } RESPONDENTS.
LIQUIDATORS }

ON APPEAL FROM THE SUPREME COURT OF NEW
BRUNSWICK

*Appeal—Jurisdiction—Winding-up order—Leave to appeal—Amount
involved—R.S.C. c. 129, s. 76.*

In a case under the Winding-up Act (R.S.C. ch. 129) an appeal may be taken to the Supreme Court of Canada by leave of a judge thereof if the amount involved exceeds \$2,000.

Held, that a judgment refusing to set aside a winding-up order does not involve any amount and leave to appeal therefrom cannot be granted.

APPEAL by leave of a judge from a judgment of the Supreme Court of New Brunswick dismissing an appeal from the order made by Mr. Justice McLeod to wind-up the Cushing Sulphite-Fibre Company, Limited.

Respondents' counsel moved to quash the appeal on the ground that it should have been brought within 14 days from the date of the order of such further time as might have been allowed by a judge of the Supreme Court of New Brunswick if application therefor had been made. The court overruled this objection to its jurisdiction, but *suo motu* raised the question as to whether or not \$2,000 was involved in

*PRESENT:—Sedgewick, Girouard, Davies, Idington and Mac-
lennan JJ.

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the appeal and called upon counsel for the appellants to support their right to appeal in that respect.

Powell K.C., and *Hanington* K.C., for the appellants.

Pugsley K.C., *Hazen* K.C., *Currey* K.C., and *Ewing*, for the respondents.

The judgment of the court was delivered by

SEDGEWICK J.—The only statutory provision by virtue of which we have jurisdiction to hear this appeal is contained in the Winding-up Act, R.S.C. ch. 129, sec. 76, which is as follows:—

An appeal shall lie to the Supreme Court of Canada by leave of a judge of the said Supreme Court (from a judgment under the Act in any province) if the "amount involved" in the appeal exceeds two thousand dollars.

We are, I think, all of opinion that in the present case there is no *amount* involved, and, therefore, that we have no jurisdiction. This view is rendered, it seems to me, perfectly clear from the phraseology of section 74 of the Act which gives an appeal from the order or decision of a single judge. In that case, if the question to be raised on the appeal involves future rights, or if the order or decision is likely to affect other cases of a similar nature, or if the amount involved in the appeal exceeds \$500, an appeal shall lie.

This shews conclusively that there is an appeal to this court only in cases where monetary questions are to be considered, as for instance, where the question is as to whether any one should be placed upon the list of contributories or should be held liable or not liable *quoad* his character as a shareholder or where some such similar matter is in controversy.

The following decisions of this court may be use-
 fully referred to upon the point in question: *Stephens v. Gerth* (1); *O'Dell v. Gregory* (2); *Lachance v. La Société de Prêts et de Placements de Québec* (3); *Noel v. Chevretils* (4); *Talbot v. Guilmartin* (5); *Bell v. Vipond* (6); *Donohue v. Donohue* (7); *Winteler v. Davidson* (8); *Tousignant v. County of Nicolet* (9); followed in *Leroux v. Parish of Ste. Justine de Newton* (10).

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Sedgewick J.

It perhaps may be a matter of regret that there should not be an appeal to this court upon all matters under the Winding-up Act, so that there might be a tribunal by which the practice in all the provincial courts should be made uniform. That is, however, a matter for Parliament to deal with and not for us.

The appeal is quashed without costs.

Appeal quashed without costs.

Solicitor for the appellants: *A. H. Hanington.*

Solicitor for the respondent Cushing: *Barnhill,
Ewing & Sanford.*

Solicitor for the respondents, Liquidators: *J.
Douglas Hazen.*

(1) 24 Can. S.C.R. 716.

(6) 31 Can. S.C.R. 175.

(2) 24 Can. S.C.R. 661.

(7) 33 Can. S.C.R. 134.

(3) 26 Can. S.C.R. 200.

(8) 34 Can. S.C.R. 274.

(4) 30 Can. S.C.R. 327.

(9) 32 Can. S.C.R. 353.

(5) 30 Can. S.C.R. 482.

(10) 37 Can. S.C.R. 321.