J. W. Bain, K.C., and Christopher C. Robinson, for the liquidator, respondent.

The Minister of Justice for Canada and the Attorney-General for Ontario were notified, but did not appear.

LENNOX, J., said that, aside from the merits, the appellant contended (1) that Parliament had no power to enact sec. 110 of the Winding-up Act, which provides that, "after a winding-up order is made, the Court may . . . by order of reference, refer and delegate . . . to an officer of the Court any of the powers conferred upon the Court by this Act:" and (2) that, if sec. 110 was not ultra vires, the powers conferred by it were not properly exercised.

As to the first point, the learned Judge said, Parliament, having power to legislate as to the insolvency and the winding-up of insolvent companies, has power to determine upon the machinery by which they shall be would up, and can say that questions arising in connection with these companies shall be wholly or partly ascertained, adjusted, and determined by the Court, or by an arbitration, commission, board, or any other designated tribunal, and this either with or without reserving a right of appeal to the Courts.

Dealing with the second objection, the learned Judge referred to secs. 64 (1) and 65 of the Judicature Act, R.S.O. 1914 ch. 56; secs. 2, 48, and 109 of the Winding-up Act; Shoolbred v. Clarke, In re Union Fire Insurance Co. (1890), 17 S.C.R. 265, 268, 269, 278, 279, 280; S.C., sub nom. In re Clarke and Union Fire Insurance Co. (1889), 16 A.R. 161. The winding-up order was clearly within the powers conferred by the statute, and was providently made; but, if it were otherwise, a Judge had no jurisdiction to set aside the order or judgment of a Judge of co-ordinate jurisdiction, which he would have to do if effect were to be given to the second objection. Even if the order was made without jurisdiction, it could not be treated as a nullity, and would, unless and until discharged on appeal, be binding on the creditors and contributories of the company, although not upon strangers: In re London Marine Insurance Association (1869), L.R. 8 Eq. 176, 193. An appeal to the Appellate Division from the order would lie—the time for appealing being limited by sec. 104—but no appeal had been taken. The order thus standing is authority for the Referee to proceed, and is binding upon the Judge hearing an appeal from