

J. W. Bain, K.C., and C. C. Robinson, for the liquidator.  
J. A. Paterson, K.C., for a committee of shareholders.  
W. G. Thurston, K.C., for the Minister of Finance.

MIDDLETON, J., in a written judgment, said that the two sums which were the subject of the Minister's claim were, \$60,000 representing outstanding circulation and \$30,000 representing unclaimed depositors' balances.

The Referee was of opinion that he had no jurisdiction under the winding-up order to deal with these matters.

The learned Judge said that, in his opinion, the claim was one which must be asserted in the winding-up. The first and most important duty of the liquidator was the dealing with the funds in his hands according to law.

In *re Tobique Gypsum Co.* (1903), 6 O.L.R. 515, and In *re Sun Lithographing Co.* (1892), 22 O.R. 57, indicated the limits of the jurisdiction under the Winding-up Act and orders made thereunder.

The winding-up order had established a forum for the determination of all the questions incident to the liquidation and the adjustment of the rights of all interested in the due winding-up of the company—including the distribution of the assets—and to this forum all claiming under the liquidation must resort.

Claims were advertised for, and all sent in were paid in full. The Referee made an order barring all claims not sent in and proved in response to the advertisements. The Minister asked leave to appeal from this order. In the opinion of the learned Judge, the Minister has no locus standi to appeal. His claim is not barred by the order. If the statute intends that the amounts not claimed shall go to the Crown or be held by the Minister, his claim will be recognised; but, if the intention is, that all the unclaimed assets shall be distributed in ease of the shareholders who have been compelled to pay in pursuance of their double liability, there must be some way of barring claimants who will not prove their claims. If they are hurt by the order, they, and not the Minister, must complain.

The appeal should be allowed and the matter remitted to the Referee. No costs so far as the Minister is concerned. The costs of the liquidator and of the shareholders represented will be part of their general costs.

*Appeal allowed.*