

and be deemed to be money levied under executions against the Fergusons, and be dealt with by him as the Creditors' Relief Act directs.

As this motion was necessary, the costs of the applicant and of those appearing on the motion, may be added to their claims.

HON. SIR G. FALCONBRIDGE, C.J.K.B. . . APRIL 24TH, 1913,

RE CANADIAN FIBRE WOOD AND MANUFACTURING
CO. LTD.

4 O. W. N.

Company—Winding-up—Rival Petitions — That of Creditor Preferred over that of Shareholder — Leave to Amend Defective Affidavit—Leave Given to File Extra-Provincial License—Stay of Order.

FALCONBRIDGE, C.J.K.B., where there were rival petitions for the winding-up of a company gave preference to that of a creditor which was first in point of time over that of a shareholder and permitted a correction to be made in the affidavit in support of their petition and if necessary an extra-provincial license to be filed by them as it was alleged that they were a foreign corporation.

Petition by creditor and rival petition by shareholder for the winding-up of a company.

G. Wilkie, for Price Brothers Co. and other creditors (petitioners).

J. M. McEvoy, for McKenzie (secretary).

G. B. Balfour, for the company.

Wallbridge, for Mrs. Millons, shareholder and petitioner.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The winding-up, if it has to proceed, ought to take place under the R. S. C. and not under the assignment for benefit of creditors, for obvious reasons.

Then who should have the carriage of the proceedings? The Price Bros. Company's petition is prior in point of time—it is alleged by a trick, but of that I have no knowledge.

It is better that a creditor should have the conduct of the matter than a shareholder. I must assume that the liquidator will investigate the matters alleged by petitioner Millons, in the interests of creditors, and in accordance with his duty.