

the Referee settling these appellants on the list of contributories and holding them liable to the liquidator for the balances by him claimed as unpaid upon their shares.

The appeals were heard in the Weekly Court, Toronto.

I. F. Hellmuth, K.C., and J. J. MacLennan, for the appellants.

J. W. Bain, K.C., and M. L. Gordon, for the liquidator.

LENNOX, J., in a written judgment, said, as to the first appeal, that the Referee was right in holding that he had jurisdiction. He is an officer of the Court delegated to exercise the jurisdiction of the Court, inherent and statutory, so far as this is within the terms or intent of the order of reference. The Winding-up Act, R.S.C. 1906 ch. 144, specifically confers upon the Court the most ample powers in winding up the affairs of an insolvent company: sec. 107 et seq. The order in this case is in the usual comprehensive terms. It would be a mistake to conclude that, if there is a right to recover in these cases, it must necessarily be against the parties qua shareholders or contributories, or that they are to be "settled upon the list of contributories" within the meaning of the statute. The ultimate question for decision is: "Are these shareholders liable to pay to the liquidator the moneys claimed?" This question the Referee has a right to determine, according to the recognised method of procedure, subject to appeal. This appeal should be dismissed with costs.

As to the second appeal the learned Judge said that the law was clear and the decisions definite that the shareholders of an insolvent company must pay the balances due on their shares. It was not necessary to consider whether the by-laws of the company and the terms upon which the prepaid shares purported to be issued were valid during the solvency and operation of the company. The clear implication and necessary inference is, that it was not contemplated that the statutory rights of the creditors of an insolvent concern would be impaired in any way by a device of the character indicated in the evidence. The conclusion of the Referee was right, and the appeal should be dismissed with costs.

Dealing with the third appeal, the learned Judge said that, in pursuance of the terms of the Ontario Loan Corporations Act, R.S.O. 1897 ch. 205, the Provincial Building and Loan Association sold and transferred the assets and undertaking of that company to the company now in liquidation, on terms set out in an agreement dated the 2nd April, 1902. The Act authorised a sale, but prescribed the conditions as well, and, amongst other things, provided for the protection of shareholders of both companies by enacting that, in addition to ratification by the shareholders, the agreement should not go into effect until assented to by the