

up proceedings began. The subsequent transfers by the appellants were made after the winding-up proceedings began; and, therefore, clearly fall within the prohibition contained in sec. 21 of the Winding-up Act. This difficulty in the appellants' way is, in my opinion, quite insuperable. That section provides that all transfers after the commencement of the winding-up proceedings—except transfers made to or with the sanction of the liquidator under the authority of the Court—shall be void. It is not contended, and it could not be, that the mere entry in the transfer books of the bank of such transfers was effective to relieve the appellants. That was done while the curator was in charge, long before the winding-up order was made—which, for some reason, was not actually made until the 29th September, 1908, or nearly two years after the proceedings began.

What is contended, as I understand counsel for the appellants, is, that the effect of the subsequent action of the liquidator in preparing and having settled the first list of contributories, in which the names of the transferees were inserted, and the names of the appellants omitted, in respect of these shares, was to bring the case within the exception to be found in sec. 21, as that of transfers made with the authority of the Court, or that, at all events, it amounted to an election to accept the transferees in the place and stead of the appellants; which, in itself or as coupled with the alleged laches of the liquidator in making the present claim, amounted to an estoppel.

In his judgment the learned Referee says: "Massey and Lee were not placed on the original list of contributories by the liquidator in respect of these shares. The liquidator had no reason for not placing them on, but they were left off through an oversight." How the oversight occurred is not explained; but it is not improbable that the long interval between the initiation of the winding-up proceedings and the winding-up order had something to do with it. When the books of the bank passed into the hands of the liquidator, the shares in question apparently stood in the names of the transferees of the 24th and 26th October, 1906, and it was not observed that these dates were subsequent to the 13th October, 1906, when the winding-up proceedings began. But, however the mistake occurred, that it was anything more than a mistake or oversight on the part of the liquidator is entirely unsupported by the evidence. There is not from beginning to end a particle of evidence that what was done was the result of intention or design on the part of the liquidator or the learned Referee. The liquidator alone was