

# The Ontario Weekly Notes

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## HIGH COURT DIVISION.

MIDDLETON, J.

APRIL 22ND, 1919.

RE ANGLO-AMERICAN FIRE INSURANCE CO. (No. 1).

*Company—Winding-up—Report of Referee—Appeal from—Order of Referee Directing Amendment or Setting aside of Notice of Appeal and Staying Hearing of Appeal—Order Vacated as Made without Jurisdiction—Costs.*

Motion by creditors of the company (in liquidation) by way of appeal from an order made by CAMERON, Official Referee, in Chambers, directing the amendment of a notice of appeal from a report made by him upon the claims of creditors in the winding-up of the company, and, in default of amendment, setting the notice aside, and directing that the hearing of the appeal should be in the meantime stayed.

The motion was heard in the Weekly Court, Toronto.

W. D. McPherson, K.C., for M. Esbert, a foreign creditor.

J. H. Moss, K.C., for another foreign creditor.

G. M. Clark and A. Cohen, for other foreign creditors.

J. H. Spence, for Canadian creditors.

A. C. Heighington, for the liquidator.

H. J. Scott, K.C., for a number of shareholders, contributories.

MIDDLETON, J., in a written judgment, said that he was clearly of opinion that the Referee to whom a winding-up is referred, subject to an appeal, is *functus officio* as to all matters dealt with by his report, and cannot directly or indirectly interfere with any appeal that may be had from his report.

The order should be vacated, and the contributories upon whose application it was made should pay the costs, which may be set off against any costs heretofore or hereafter allowed to the contributories, and, if they cannot be recovered, must be paid out of the fund.