

HIGH COURT DIVISION.

MIDDLETON, J., IN CHAMBERS.

APRIL 2ND, 1918.

*COLE v. BRITISH-CANADIAN FUR AND TRADING CO.

Company—Winding-up—Action against Company Commenced before Winding-up Order—Liquidator Authorised to Continue Defence in Name of Company—Action Allowed to Proceed—Addition of Liquidator as Party Defendant—Order Set aside—Personal Liability of Liquidator for Costs.

Motion by the liquidator of the defendant company to set aside an order adding him as a party defendant.

The motion was heard in the Weekly Court, Ottawa, as in Chambers.

M. G. Powell, for the liquidator of the defendant company.
C. J. R. Bethune, for the plaintiff.

MIDDLETON, J., in a written judgment, said that one Reid carried on business as D. M. Chambers & Co. On the 27th June, 1917, he made an assignment for the benefit of his creditors to Cole, the plaintiff. On the 1st May, 1917, Reid had made a chattel mortgage to the defendant company for \$10,111.78; and this action was brought for the purpose of having it set aside as fraudulent and preferential. The action was at issue on the 12th December, 1917.

On the 28th December, 1917, a winding-up order was made under the Dominion Act, placing the defendant company in liquidation, and Paul Turgeon was appointed liquidator. The order was pronounced by the Superior Court of Quebec.

On the 2nd February, 1918, that Court made an order allowing the liquidator to intervene and continue the defence of this action; and on the 15th February, 1918, at the instance of the plaintiff, the same Court made an order allowing him to continue this action against the company in liquidation.

On the 6th March, 1918, the Local Master, on the application of the plaintiff ex parte, made the order adding the liquidator as a party defendant.

When a winding-up order is made, the company does not cease to exist. Its property remains vested in it. It ceases to remain under the management of its directors and under the control of its shareholders, and is placed under the control of the