DECISIONS IN COMMERCIAL LAW.

RE JOHN EATON COMPANY, LIMITED.—Upon an application to appoint as permanent liquidator of the John Eaton Company in a winding up proceeding, under the Dominion Act, Mr. E. R. C. Clarkson, the assignee, for the benefit of creditors, under an assignment executed by the company before the winding-up proceedings were instituted, and where the assignee had been appointed interim liquidator, on the order being made for the winding up, the Master-in-Ordinary, in giving judgment, said: "Certain evidence warrants me in disapproving in the strongest language allowable to judicial utterances, the attempted bargaining respecting the court appointments of liquidator and solicitor. Had I allowed the objection that the letters and interviews about that bargaining were 'privileged communications,' I would have made the court a condoning party to a proceeding known in outside affairs as 'log-rolling.' No privilege can be claimed or allowed by which any such bargaining respecting appointments of trust from this court might be concealed or condoned. And if ever similar efforts to promote or control such appointments here, should culminate in a bargain, I hesitate not to say that it will be my duty to use such judicial power as I possess, to free the court from the taint of complicity with such bargaining. It is no part of my judicial duty to consider how the newspaper controversy or the contentions in these proceedings may affect Mr. Clarkson personally or in his commercial relations with the business community. Disregarding the quarrels and antagonism displayed in this case, and giving weight to what the justice of the case requires, I must consider only the best interests of the creditors of this company, and the qualifications of the officer to be appointed liquidator. Were I to appoint some other person as liquidator, then the assignee and trustee in whom the estate and rights of action in this company have been vested, such an appointment would most probably lead to the antagonisms deprecated by many judges, practically illustrated here, and waste the assets of the creditors in prolonged litigation on questions of provincial or Dominion jurisdiction.

"Evidence has been adduced before me with the view of showing that Mr. Clarkson, the trustee for the creditors under the assignment, should not be appointed permanent liquidator. But I find that substantially the same facts as to Mr. Clarkson's previous connection with the company and the Bank of Toronto were before the learned judge who appointed him interim liquidator; and his decision on those facts cannot be reviewed by me. If Mr. Clarkson is unfit for the position of permanent liquidator, he was unfit for that of interim liquidator to which the learned judge appointed him. The possibility of dissensions continuing induced me to decline appointing two liquidators, and giving the chance of appeals to the court, not for direction merely, but upon the questions of antagonism, and thereby occasioning great expense and delay to the creditors of this company. Without considering further reasons, I think the best interests of the creditors will be conserved by my adopting the reason given by Mr. Justice Robertson in his judgment, that 'as the estate is now in the hands of Mr. Clarkson, under the voluntary assignment, I appoint him interim liquidator.' For the same reason, and others indicated above, I appoint him permanent liquidator."