CLUTE, J., IN CHAMBERS.   MAY 28TH, 1915.

RE INTERNATIONAL TRAP ROCK CO. LIMITED.

Company — Winding-up — Petition by Unsecured Creditors under Winding-up Act, R.S.C. 1906 ch. 144 — Previous Assignment by Company for Benefit of Creditors —Sale of Assets Ordered by County Court Judge—Charge of Collusion—Discretion.

Petition by creditors of the company for a winding-up order under the Dominion Winding-up Act, R.S.C. 1906 ch. 144, and amending Acts.

The company was incorporated under the Ontario Companies Act, by letters patent issued on the 7th December, 1912.

On the 26th December, 1914, the company executed a general assignment, under the Ontario Assignments and Preferences Act, to one Stephenson, for the benefit of creditors. The statement of the assignee shewed liabilities amounting to $315,200 and assets of the nominal value of $500,000. The unsecured creditors' claims aggregated about $80,000.

The petitioners shewed that an action to remove the assignee had been commenced by a large creditor and shareholder of the company, and that in that action an interim injunction had been granted restraining the assignee from selling the assets. Collusion was charged.

J. A. Macintosh, for the petitioners.
T. H. Willison, for the company.
D. Inglis Grant, for the assignee.
P. T. Rowland, for certain creditors.
J. A. McPhail, for certain creditors and shareholders.

CLUTE, J., was of opinion that the unsecured creditors, who supported the petition, were entitled to test the truth of the allegations as to collusion and other matters and to preserve the assets until these matters could be fully inquired into; and it was in the interest of all parties that a winding-up order should be made.

There was a discretion to grant or refuse the order; and nothing decided in Re Strathy Wire Fence Co. (1904), 8 O.L.R. 186, or in other cases of the same class, prevented an order being made, although there was an assignment, and a sale of the assets had been directed by a County Court Judge.

Order made for the winding-up.