

balance to be spread over a year. On 11 April an offer by James E. Keenan of \$14,500 in cash was made and submitted to a meeting of assignee and inspectors on that day. Mr. Creasor, assuming to represent Strathy, offered \$15,000 in cash, whereupon Keenan raised his offer to \$16,000 in cash, and it was unanimously accepted by the assignee and inspectors. Mr. Creasor seconding the motion. Before doing so, however, he communicated with Strathy, who said he would not be able to make a further offer before the evening of that day. A bill of sale to Keenan and his associates of all the assets of the company was executed by the assignee and the inspectors on the 15th April, but the money was not paid until 13th May. The petition was filed on the 18th May. The petition was chiefly based upon the contention that the sale to Keenan and his associates should not be allowed to stand, chiefly because of the alleged inadequate price realized, and also because the purchasers were directors of the company, and because the assignee acted improvidently in making the sale without advertising.

R. C. Levesconte, for petitioner.

G. H. Watson, K.C., for the company.

C. A. Moss, for Johnson & Nephew.

TEETZEL, J.—Even if the contentions of the petitioner were well founded, he would be able to obtain redress, notwithstanding the assignment, by an action: see *Hargrave v. Elliott*, 28 O. R. 152; and these questions would be more satisfactorily disposed of in an action than in the Master's office at the instance of a liquidator. . . . The preponderance of evidence supports the view that the sale was in the interests of the creditors, and that more would not have been realized by delaying the sale and having it conducted by public auction or by tender. . . . Under all the circumstances, a winding-up order should not be made, but the assignee should be allowed to complete the administration of the estate. Any creditor who considers himself aggrieved may take such action to impeach the sale as he may be advised. Having regard to the conflicting views as to the absolute right of a creditor to a winding-up order, upon shewing the insolvency of the company, as expressed in *Re Lamb Manufacturing Co.*, 32 O. R. 243, and *Re Maple Leaf Dairy Co.*, 2 O. L. R. 590, the petitioner should have leave to appeal from this order both as to the right to exercise a discretion and upon the merits.

Petition dismissed without costs.