

Interim Report on Dominion Trust Liquidation

Probable Results of Liquidation and Factors Involved in the Winding-up of This Company

Mr. Andrew Stewart, liquidator of the Dominion Trust Company, has submitted to the Honorable Mr. Justice Murphy of the Supreme Court of British Columbia an interim report of the liquidation from October 27, 1914, the date of liquidation, to September 21, 1917, with statement of realizations and disbursements to June 30, 1917.

We present herewith the general statement of the liquidator and in the next issue we will present some of the details and particulars from the report of Mr. Stewart, with comment. The report proceeds:

The undersigned submits herewith a statement of the realizations and disbursements of the Dominion Trust Company (in Liquidation), from October 27, 1914 (date of liquidation) to June 30, 1917, and a general report of the affairs of the company to the date hereof.

In submitting this report, it is a matter of regret that, for reasons to which reference will presently be made, one is unable to state, even approximately, the amount of the possible dividend. I am pressed, however, with the opinion that notwithstanding the uncertainties of the liquidation and the many difficulties that confront me, it is better to make a report now which will at least inform the court and those creditors who have not corresponded regularly with us, with respect to some of the difficulties and uncertainties of the winding-up.

The difficulties in the way of making an accurate forecast of the result of the winding-up were, at the date of liquidation, practically innumerable, and it is submitted that no good purpose would now be served by any attempt at a detailed statement. These difficulties, however, have been greatly reduced and the chief remaining obstacles may now be summarized as follows:

1. The settlement of the affairs of the estate of W. R. Arnold is still of great importance in this liquidation. A brief recital of the principal facts in connection therewith may not be out of place.

Arnold by his will appointed the Dominion Trust Company his executor and in due course probate thereof was duly applied for and granted. The liquidation fortunately succeeded in maintaining the executor's right of retainer which, while possibly working some hardship to Arnold's private creditors, enured to the benefit of the liquidation. This right of retainer has been a peculiarly fortunate one for the Dominion Trust Company liquidation since the liquidation would have been in the unfortunate position of having no funds on hand to carry on the winding-up had the right of retainer not been sustained by the court, and in the result the sum of \$208,695.80 has been received on account of insurance policies which were indisputable, the period during which the liability of the insurance companies might have been disputed having expired.

Mrs. Arnold made a claim on this insurance money as a beneficiary under her husband's will and I was advised by counsel that as the will was not in conformity with the "Life Insurance Act," the claim should be resisted. Mrs. Arnold then brought an action to recover the sum of \$75,000 bequeathed to her by the will. The trial judge dismissed the action and from his decision an appeal was taken to the Court of Appeal. This court on the hearing being evenly divided, the judgment of the trial judge stands. Mrs. Arnold has now appealed to the Supreme Court of Canada and it is expected that that appeal will be heard in the near future.

2. In addition to the insurance money recovered, as already mentioned, there were claims against four other insurance companies amounting to \$218,000. Actions have been brought against three of these companies for the sum of \$160,000. At the trial, the chief justice consolidated the actions and gave judgment in our favor. From this judg-

ment an appeal was taken to the Court of Appeal, with the result that the Court of Appeal was equally divided, two of the judges holding that the actions had been wrongly consolidated and that therefore there had been in effect no trial, while the other two were of the opinion that the insured committed suicide and that there had been misrepresentations in his application. From this decision an appeal has been made to the Judicial Committee of the Privy Council, which cannot be heard until the sitting of the board to be held in April, 1918.

3. The contributories have not so far been fixed with liability for the balance due on their respective shares. Proceedings to wind up the Dominion Trust Company, Limited—that is, the old company—have, however, been commenced with the intention of establishing the liability of the contributories in that liquidation.

4. The ranking of the depositors has not yet been determined. The total claims of depositors amount to \$927,035.43 and the other claims amount to \$2,746,509.76, which, however, will probably not rank for more than \$2,300,000.00. The question of whether the depositors are to rank as ordinary creditors or subsequent to them has therefore an important bearing on the result of the winding-up.

5. The validity of a number of allocations of security for trust creditors and depositors has still to be determined. My solicitors have this matter in hand and it is being proceeded with as speedily as possible. It is likely, however, that some of the questions cannot finally be determined until the status of the depositors is decided.

6. Several actions have still to be brought involving considerable sums. The most important one will be against the Royal Bank of Canada for the return of the securities which they hold.

7. It has not yet been decided whether the Provincial Government can recover the proceeds of the two bonds of \$200,000 and \$50,000 respectively. Actions have now been commenced, however, and I am informed that they are likely to be set down for trial in the near future. Should the Government be successful in these actions, there is likely to be further litigation to decide which class or classes of creditors shall participate in the proceeds.

8. A considerable portion of the assets of the company consist of real estate or real estate securities. Conditions during the past two years have not been conducive to realization, nor have values in Western Canada yet reached a stable condition where accurate valuation is possible.

9. The relationship of this liquidation to the liquidation of the British Canadian Securities, Limited, has never been definitely settled. In my report to the meeting of creditors held on March 14, 1917, I explained the difficulties in this connection, the chief one being to determine which company is the owner of certain assets. The creditors at that meeting authorized me to negotiate with the creditors of the British Canadian Securities, Limited, with the object of paying to them a first and final dividend not to exceed ten cents on the dollar to ordinary creditors, and obtaining from them at the same time a release of all claims on the remaining assets. It has been necessary to dispose of some disputed claims before these negotiations can be continued. Considerable progress has been made, and if the claim of the Royal Bank of Canada can be settled on a reasonable basis, which, so far, has not been possible, there is no reason why the matter should not be disposed of in the near future.

10. There are a number of claims of considerable amount made against the company which must be resisted. The expense in this connection is difficult to estimate.

The unsettled matters just before referred to show the impossibility of making an estimate of the amount of the dividend. The valuation of the assets also is by no means easy. As nearly, however, as I can estimate, that is, with-