

When a Company shall be deemed unable to pay its debts.

IV. A company shall be deemed unable to pay its debts, within the meaning of this Act, whenever execution against the goods of such company is returned unsatisfied in whole or in part by the Sheriff of the County in which the principal office or house of business of such company is situate, or whenever a sum of money directed by a decree, order or report of the said Court to be paid by such company shall have remained unpaid for the space of thirty days after service on such company of such decree, order or report, by leaving a copy thereof with any one of its members or officers, or at its said principal house of business. 5 10

On what application a Company may be wound up.

V. Any application for the winding up of any company shall be by petition filed in the said Court, and verified by affidavit or other sufficient evidence; and such petition may, in cases where the company is unable to pay its debts, be filed either by a creditor whose debt shall have remained unsatisfied after such proceedings as aforesaid taken to compel payment thereof, or by any member of the company liable to become a contributory towards such assets as aforesaid for the payment of its debts; but when any ground other than the non-payment of debt is alleged for the winding up of the company, such contributory alone shall be entitled to make such application. 15 20

Notice of hearing by advertisement.

VI. Twenty days before the hearing of any such petition as aforesaid, notice of such hearing shall be advertized once in the "Canada Gazette," and once in some newspaper published at the place where the head or only office or house of business of the company is situate, or in case no newspaper be published at such place, then in the newspaper whose office of publication is nearest thereto; and such notice shall also be served at the said head or only office of the company upon any member, officer or servant thereof, or in case no such member, officer or servant can be found there, then by being left at such office, or served anywhere personally upon any member of the said company; Provided that in case such service as aforesaid cannot be effected within such time as the said Court may deem reasonable, the said Court may proceed to hear and to make any order on the said petition on production of the number of the "Canada Gazette" and newspaper containing such advertisement, and without proof that such notice has been served in manner aforesaid; Provided also, that the said Court may, if it shall think fit, at the hearing of the said petition, direct the same to stand over for the purpose of making such further service (if any) as to the Court shall seem meet. 25 30 35

Proviso.

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What orders the Court may make.

VII. Upon the hearing of any petition filed by such creditor as aforesaid, the Court may dismiss such petition or make an order for the payment of the debt, and in case of default in such payment then an order absolute for winding up the company by a certain day therein named, or it may make an order absolute in the first instance for the winding up of the company, or such other order as it may deem just. 40 45

And if the application is made by a Contributory.

VIII. Upon the hearing of a petition filed by such contributory as aforesaid, the Court may dismiss the petition, or make an order absolute directing the company to be wound up, or such other order as it may deem just.