

winding-up order, and not to the obligations incurred by the liquidator in the course of the liquidation. It was said that leave should be obtained before suing the liquidator; but that was a matter of law, which the Judge in the Division Court had determined, and his decision could not be reviewed upon a motion for prohibition.

The liquidator's personal credit was pledged in his agreement with Silver: *Burt Boulton & Hayward v. Bull*, [1895] 1 Q.B. 276 (C.A.)

Motion dismissed with costs, payable by the liquidator, without prejudice to any right he may have to resort for indemnity to the assets of the company in liquidation.

MIDDLETON, J.

JUNE 29TH, 1915.

RE BILTON.

Will—Admission to Probate—Subsequent Discovery of Pretended Codicils—Rejection by Executors as not Genuine—Duty of Executors.

Motion by the Canadian Red Cross Society for an order declaring that it is the duty of the executors named in the will of Naomi Bilton, deceased, to propound for probate two alleged codicils to the will, and transferring the proceedings from the Surrogate Court of the County of York to the Supreme Court of Ontario.

The testatrix by her will, dated the 6th February, 1912, and admitted to probate on the 10th June, 1914, gave substantially all her property to the University of Toronto, with certain devises over in the event of any attempt to convey the real estate to or permit its occupation by a departmental store.

By the earlier codicil, the land in Toronto, worth about \$200,000, was given to one Armstrong as representing the Red Cross Society of Canada, "without any conditions as to the manner of disposal of the said real estate; by the later codicil, Armstrong was appointed the executor and trustee of the will and the two codicils.

The motion was heard in the Weekly Court at Toronto.

J. T. Small, K.C. for the applicants.

H. E. Rose, K.C., for the executors.

J. A. Paterson, K.C., for the University of Toronto.