

could not in any case be properly made by a shareholder, but by the Scotch liquidator only.

The appeal was from two judgments rendered by the Superior Court, district of Arthabaska (BILLY, J.) May 7, 1889, appointing a liquidator to the estate of "The Scottish Canadian Asbestos Company (Limited)," under the provisions of the Winding-up Act, R.S., ch. 129, and rejecting the motion of the appellant made at the meeting of creditors held before the Court, to suspend and dissolve the proceedings.

Leave to appeal from these judgments was granted on the 21st of May, 1889.

Two "Winding-up Orders" were applied for in this matter; one was granted on the 19th of February, 1889, by Mr. Justice Plamondon, on the petition of Lucke & Mitchell; the second was granted on the 24th of March, 1889, on the application of James Baxter *et al.*, by Mr. Justice Billy.

At the first regularly convened meeting of the creditors of the company, the appellant, who is owner of stock in the company to the extent of £14,800 sterling, objected to the proceedings under the Canadian Winding-up Act, and petitioned to dissolve the proceedings, on the ground that the Court had no jurisdiction, that the Company being incorporated under the Imperial Joint Stock Companies' Act, could not be wound up under the Canadian Act, and he opposed the appointment of a liquidator. The appellant's motion was as follows:—

"That inasmuch as the said Company was incorporated under the provisions of the Joint Stock Companies' Act of the United Kingdom of Great Britain and Ireland, and is subject to the provisions of the said Imperial Act as regards its status, powers, and franchises, and the rights and obligations of shareholders and contributors, and as regards all matters respecting its corporate capacity; and inasmuch as the said Company is subject to the laws of the United Kingdom of Great Britain and Ireland, as regards its liquidation; and inasmuch as the Winding-up Act of the Dominion of Canada does not apply to the said Company; and inasmuch

" as the said Winding-up Act, and all legislation of the Parliament of the Dominion of Canada, in so far as it relates or applies to the liquidation of the said Company, is *ultra vires* of the said Parliament of the Dominion of Canada; that the present meeting of creditors be dissolved, and that the winding-up order and all proceedings had herein be set aside and declared irregular and of no effect, saving to the said Company and its shareholders and creditors, all rights to which they may be by law entitled."

The judgments merely rejected this motion, and appointed Charles A. Hanson and Edwin Hanson liquidators.

The principal question raised by the present appeal is whether the Company incorporated under the Imperial Act can be wound up under the Canadian Act, and whether the legislation of the Canadian Parliament providing therefor is within the powers of Parliament.

CROSS, J. (*diss*):—

On the 7th May, 1889, Mr. Justice Billy, holding the Superior Court at Arthabaska, granted the petition and motion of G. Lucke *et al.*, creditors, for the appointment of a liquidator to the Scottish Canadian Asbestos Company, limited, and thereupon appointed Charles and Edwin Hanson of Montreal, liquidators.

At the same time the same learned Judge rejected a motion made by the appellant Harry Allen to dissolve the proceedings.

From these judgments or orders Harry Allen has instituted the present appeal.

It appears by the record that the Scottish Canadian Asbestos Company (Limited) is a Joint Stock Company, incorporated under the Acts of the Imperial Parliament of 1862 and 1886, having its head office at the City of Glasgow in Scotland, its principal business having been carried on at Arthabaska in Canada, where its chief property and interests are situated, and that it has become insolvent, and that proceedings have been taken in Scotland for the winding up of its affairs, which has been ordered, and a liquidator appointed there before proceedings to that end were taken in Canada; also that Allen the appellant, a resident of New