

The defendants raised the objection that the application is not properly made to this Court, but should have been made to the Court out of which the winding-up order issued, which alone, they contend, is qualified to grant such leave in the present case. Opposed to this is the view urged by the plaintiff's counsel that the Courts of the various Provinces are auxiliary to one another for the purposes of the Winding-up Act (see sec. 125); and that, therefore, this Court possesses jurisdiction to grant the application, notwithstanding that the winding-up proceedings have been instituted and are being carried on in the Province of Quebec.

The Quebec Court is now seized of the matter, and, being a Dominion Court for the purposes of the winding-up proceedings and having jurisdiction to restrain an action in another Province (*Baxter v. Central Bank*, 22 O.R. 214), it has also the right to determine whether or not an action such as this should, at this or any other stage of the winding-up proceedings, be permitted to proceed. It is thus the proper Court to exercise control over the liquidators and the proceedings to wind up, and to direct what is the proper course to be pursued in these proceedings in the interests of the shareholders, the creditors, and claimants. Inconvenience and confusion might, and perhaps would, result if matters such as the present application could be disposed of in the Courts of any Province, and not be confined to the Court wherein the winding-up proceedings were instituted. For this Court to assume the right to permit the action to continue would be to ignore the jurisdiction taken upon itself by the Quebec Court when it granted the winding-up order.

This is not opposed to the terms of sec. 125 of the Act, which enacts that the winding-up of the business of a company or any matter or proceeding relating thereto may be transferred from one Court to another with the concurrence or by the order or orders of the two Courts, or by an order of the Supreme Court of Canada. It is under such circumstances and to that extent that the Courts of the various Provinces are auxiliary to one another.

I am of opinion that the order should not be made by this Court, and the application must be dismissed, with costs in the cause to the defendants.

It is unnecessary to add that this ruling does not, in any way, touch upon the merits of the application, or the propriety of allowing the plaintiff to proceed now with his action to establish his claim—all of which is matter for consideration on an application to the proper tribunal.