afterwards saying he was not the holder of such shares."

It may be added that, although many defences are open to shareholders in actions between themselves and the bank, the rule is clearly established that such defences must be availed of within a reasonable time, and before any waiver of the defence by accepting dividends, or otherwise dealing with the shares.

But the right to such defences—even to that highest defence, fraud—is gone the moment the bank comes under the operation of the Winding-up Act, and its members are transformed from "shareholders" or owners of its share property to "contributories," or persons bound to contribute to the assets, for the benefit of the creditors. After an order to wind up a company there are only creditors and contributories and no company, and then rescission of the contract in respect of the shares is impossible: *Burgess' case*, 15 Ch. D. 509. The question then to be considered is not who is the person who is the owner of the shares, but who is liable in respect of the legal tenancy, at the time the tree was cut down: per Lord Westbury in *Barrett's case*, 4 De G.J. & S. 421.

I have now, I think, disposed of the various defences raised in the majority of the cases before me. A few others must be dealt with separately on the settlement of the list.

Early Notes of Canadian Cases.

SUPREME COURT OF CANADA.

ROBERTSON *v.* WIGLE (THE ST. MAGNUS).

[March 19.

Maritime Court—Collision—Damages—Party in fault—Answering signals.

The owners of the tug "B. H." sued the owners of the steam propellor "St. M." for damages occasioned by the tug being run down by the propellor in the River Detroit.

Held, reversing the judgment of the Maritime Court of Ontario, that as the evidence showed the master of the tug to have misunderstood the signals of the propellor, and to have directed his vessel on a wrong course when the two were in proximity, the owners of the propellor were not liable, and the petition in the Maritime Court should be dismissed.

Appeal allowed with costs.

MacKelcan, Q.C., and *Lash*, Q.C., for the appellants.

Christopher Robinson, Q.C., and *S. White*, for the respondents.

WARNER *v.* MURRAY.

[April.

Insolvent estate—Claim by wife of insolvent—Money given to husband—Loan or gift—Questions of fact—Finding of Court below.

M., having assigned his property to trustees for the benefit of his creditors, his wife preferred a claim against the estate for money lent to M. and used in his business. The assignee refused to acknowledge the claim, contending that it was not a loan, but a gift to M. It was not disputed that the wife had money of her own, and that M. had received it. The trial judge gave judgment against the assignee, holding that M. did not receive the money as a gift. This judgment was confirmed on appeal.

Held, affirming the judgment of the Court of Appeal, that as the whole case was one of fact, namely, whether the money was given to M. as a loan by, or gift from, his wife, who in the present state of the law is in the same position, considered as a creditor of her husband, as a stranger, and as this fact was found on the hearing in favor of the wife and confirmed by the Court of Appeal, this, the second Appellate Court, would not interfere with such finding.

Appeal dismissed with costs.

Moss, Q.C., for the appellant.

Gibbons, for the respondent.

VIRTUE *v.* HAYES, *in re* CLARKE.

[April 9.

Appeal—Final judgment—Jurisdiction—Discretion of Court or judge.

Judgment was recovered in the suit of *Virtue* v. *Hayes*, brought to realize mechanic's liens, and C., the owner of the land