

Mr. Clarkson, the trustee for the creditors under the assignment, should not be appointed permanent liquidator. But I find that substantially the same facts as to Mr. Clarkson's previous connection with the company and the Bank of Toronto were before the learned judge who appointed him interim liquidator; and his decision on those facts cannot be reviewed by me. If he is unfit for the position of permanent liquidator, he was unfit for that of interim liquidator to which the learned judge appointed him.

The possibility of dissensions continuing induces me to decline appointing two liquidators, and giving the chance of appeals to the Court, not for direction merely, but upon questions of antagonism, and thereby occasioning great expense and delay to the creditors of this company.

Without considering further reasons, I think the best interests of the creditors will be conserved by my adopting the reason given by Mr. Justice Robertson in his judgment, that "as the estate is now in the hands of Mr. Clarkson, under the voluntary assignment, I appoint him interim liquidator." For the same reason, and others indicated above, I appointed him permanent liquidator.

As to costs, I intimated at the opening of these proceedings that the English practice had laid down a rule which I might have to follow. These proceedings show the propriety of adopting it; but as the order gives the petitioning creditor the costs of the reference, and as he has failed in his nomination of liquidator, he can only be allowed the ordinary costs of an ordinary application where there has been no contest.

J. Parkes for opposing creditors.

S. H. Blake, Q.C., for assignee and consenting creditors.

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## ATTORNEY-GENERAL FOR ONTARIO v. CAMERON.

ROSE, J.]

[SEPT. 25.]

*Succession Duties—Accumulations.*

Supplementary special case stated for the opinion of the Court in regard to succession duties upon the estate of the late Alexander Cameron, of Windsor, and Toronto, as to how the duty should be computed, upon what sum or sums, and when paid on the capital sum of the estate. The parties agreed, in accordance with the principles of the judgment already given (27 O. R. 380), that the duty on the legacies payable before the final distribution is to be computed on the amount of each legacy as it is paid. Held, as to the capital, that the duty to be computed and paid is to be upon the amount of capital actually distributed upon the final distribution, whether the same may have been increased by accumulations or by rise in values, or have been diminished; but the period of distribution is not necessarily at the end of twenty-one years. Until the beneficiaries are entitled to possession or to actual enjoyment of the moneys directed to be paid to them, the duty is not payable, and the amount of such duty cannot be ascertained until the time the right of possession accrues. There is no final distribution of the estate until the moneys reach the hands of the persons who shall become entitled thereto. Judgment accordingly.

J. R. Cartwright, Q.C., for the plaintiff.

E. D. Armour, Q.C., for the defendants.

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## GRIFFIN v. FAWKES.

STREET, J.]

[SEPT. 22.]

*Production of Documents—Privilege.*

Appeal by plaintiff from order of Master in Chambers, requiring plaintiff to produce certain documents sought to be protected. The action was brought to enforce an award,