

As the practice in this Province has been hitherto unsettled, I think the allowance of the appeal should be without costs.

STREET, J.

OCTOBER 14TH, 1903.

WEEKLY COURT.

RE FARMERS' LOAN AND SAVINGS CO.

Company—Winding-up—Compromise of Claim by Liquidator — Approval of Referee — Application by Debenture Holders for Leave to Appeal as a Class—Previous Appointment of Solicitors to Represent Class—Special Purpose—Costs.

The company being in liquidation under the provisions of the Winding-up Act of Canada, and the Winding-up Amendment Act, a controversy arose between the debenture holder creditors and the savings bank deposit creditors as to their respective priorities. Meetings were held and representative creditors of each class were appointed by the Master in Ordinary, to whom the powers of the High Court had been delegated under sec. 20 of the amending Act. By the same orders Messrs. Henderson & Small were appointed to act as solicitors for the debenture holders as a class in certain specified appeals, "and to represent the interests of the debenture holders as a class in the winding-up proceedings," and Messrs. Kerr, Davidson, and Paterson were similarly appointed to represent the other creditors. Subsequently Mr. Neil McLean, an official referee, was appointed referee under sec. 20 of the amending Act, with the powers of the Court, in the place of the Master in Ordinary.

In 1898 an action had been brought by the company against the executors of James Scott, deceased, to recover large sums of money alleged to be payable by him to the company. He had been vice-president from 1882 till his death, in 1896, and it was alleged that he had become individually liable for all the debts of the company under sec. 37 of R. S. C. ch. 118, and that he was also liable, apart from that provision, in a large sum of money for neglect and misfeasance as a director and vice-president. The action was not brought until the liquidation proceedings had begun, and it was authorized by an order of the Court. It was never brought to trial, but was still pending when on 31st March, 1903, the liquidator entered into an agreement with the executors of Scott to compromise the claims of the company against them for \$11,000 cash, the agreement being declared to be subject to the approval of the Court. The liquidator then applied to the referee under sec. 33 of the Act for his