

creditors paid, and the surplus transmitted to the court of the state of which the corporation was a citizen, and where the receivers were originally appointed for the purpose of winding up its affairs. It is wholly unnecessary at this stage of the proceeding to enter into any discussion as to the propriety of this method of administration. Logically, it comes up for determination when distribution is about to be made. If any creditor, not a resident of this state, believes that he is entitled to participate in such distribution, he may submit proof of his claim to the receivers. If they reject the claim, as, under the practice prevailing here, they undoubtedly will, such creditor is entitled to have the propriety of such action passed upon by the master to whom, in the first instance, all disputed questions as to allowance or disallowance of claims are to be presented. If the master's decision be adverse to the creditor, he may review it upon exceptions to the report; and, if such exceptions be overruled by the circuit court, such determination is a final decree, from which he may appeal to the circuit court of appeals. In this way the creditor's right to share in the distribution is judicially considered and decided as a question of right, unembarrassed by any exercise of discretion, as would be the case if the same question were presented upon a petition for intervention.

2. Counsel for nonresident creditors further insists that, in addition to the opportunity of formally presenting their claim to share in the proceeds, they are entitled to be put in a position where they may criticise or object to the claims of others, and may examine and dispute the propriety of the receivers' conduct. Except in one respect, to be noted hereafter, the ordinary proceedings of the receivers may safely await the time when their accounts and transactions are sent to the master for investigation. Under the practice in this circuit, the master gives notice of the opening of the hearing before him, touching the receivers' administration, to all who have filed claims, or to their representatives, and abundant opportunity is afforded to all who are interested either as direct distributees of the New York assets or as distributees of whatever surplus fund may be left for transmission to the court of original jurisdiction. The ordinary disbursements of receivers in collecting and preserving a fund are of such a character as not to require any special investigation in advance of this one by the master, the bond in each case being made sufficiently large to insure a response to whatever sums may be surcharged upon the account. No distribution by the receivers is made until the master has investigated and made his report; and thus, upon his investigation, the creditor who has filed a claim, whether it be allowed or disallowed, may have the opportunity of questioning the propriety of allowing any other claim or claims. Intervention, therefore, is unnecessary to protect any rights of creditors in this respect.

3. In this particular receivership there have been some extraordinary expenditures by the receivers. They have been allowed to proceed with the business so far as to complete the manufacture

of articles which the corporation was under contract to furnish, thus in some instances making a slight profit on the transaction, and at all events avoiding damages for breach of contract. They have also been allowed to work up such raw material and partly manufactured materials as they had on hand into finished products, in the belief that they could thus be better disposed of. In a few instances they have been allowed to provide the raw material, and fill orders received from old customers of the corporation of undoubted solvency, in the belief that in that way the good will of the corporation, which seemed to be a valuable asset, might be preserved, and the opportunity of selling the entire plant, with such good will, at a favorable price, be greatly increased. This was done with the assent of most of the resident creditors; certainly with the expressed dissent of none. Inasmuch as some of the non-resident creditors now question the advisability of such action, it would be appropriate, in advance of the hearing before the master, to provide for a hearing by the court of the question whether such business should continue, all parties interested having the opportunity to be present and submit their views. In this particular case, however, such proceeding is not now necessary. The various items of work which have been undertaken from time to time by the receivers have been practically now completed. There is in contemplation no further effort to carry on the business. Satisfactory arrangements have been made whereby the premises now occupied will be vacated, certainly by the 1st of May, and probably by the 1st of April, and it is the expectation of the receivers to be able to wind up their business and present their accounts on or before that date.

4. Some of the nonresident creditors insist that their position is different from that of others, by reason of the circumstance that the contracts out of which their claims arose were made in this state, and, therefore, that they, equally with the resident creditors, were entitled to avail of process of the state courts by attachment, etc., at the moment when this court took the res into its possession. This same question has been presented recently to this court in two receiverships, but it was not decided, for the reason that no opposition was made to the claim of nonresident creditors thus situated. Objection was not made in these cases, for the reason that the New York assets were abundantly sufficient to pay all claims filed here, including those of nonresidents holding New York contracts, and leave a considerable surplus for transmission to the state of which the corporation was a citizen, and where its affairs were being wound up. This particular question is prematurely raised at this stage of the case. Creditors who believe that they are entitled to share in the distribution may file their claims with the receivers, and, whether the same be allowed or disallowed, they will have the same opportunity as all the other creditors to overhaul the receivers' account, to present their own claims before the master, and to object to the allowance of any other claims, as they may be advised.