

counsel to appear for the bank and as formally representing the bank, but in the interest of the creditors, and assist to the fullest extent possible the recovery of the claims.

*R. McKay*, for the appellants, contended that the Master had no jurisdiction under the Act to make his order, no writ having been issued nor action instituted, nor process served, to bring the bank before the Court; and that in any event the bank had, so far as shewn, fully accounted to the liquidator, and the Master had not properly construed the agreement.

*C. H. Ritchie*, K.C., for the liquidator, contended that the making of the agreement to which the bank, a creditor setting up a claim, though not filing it, was a party, conferred jurisdiction: R.S.C. ch. 129, ss. 33, 61. Moreover the bank, after seeking to prove their claim, had voted at meetings of creditors. At all events there was jurisdiction to order an account of the moneys agreed to be paid to the liquidator. He referred to *Ex p. Clark*, 14 W.R. 856; *Ontario Bolt Co. v. Livingstone*, 14 O.R. 211, 16 A.R. 397; *Re Sun Lithographing Co.*, 22 O.R. 57; *Hart v. Ontario Express Co.*, 25 O.R. 247; *Re Hawkins*, L.R. 3 Ch. 787; and *Re Essex Centre Mfg. Co.*, 19 A.R. 125.

Held that the agreement was a mere compromise between two persons at arms' length. The bank was simply an outsider compromising with the liquidator, and upon the facts nothing had occurred to confer any jurisdiction upon the Master.

Appeal allowed with costs, and order set aside with costs. Leave to liquidator to commence an action.

Armour, C.J., Falconbridge, C.J.]

[Nov. 6.

DENNY v. CAREY.

*High Court of Justice—Local Judge—Barrister sitting as deputy of—Jurisdiction.*

An appeal by the plaintiff from an order of BOYD, C., in Chambers, affirming an order of Mr. Elliott, a barrister, acting for and in the place of the local Judge of the High Court at Milton, by request of such local Judge, requiring the plaintiff to give security for the costs of the defendant Page, a peace officer.

*Raney*, for appellant.

The Court raised the point that Mr. Elliott had no jurisdiction to make any order in a High Court action.

*D. L. McCarthy*, for the defendant Page, admitted that the barrister had no jurisdiction unless by consent under Rule 767, but contended that the Chancellor's order was in effect a substantive order, and should not be set aside merely because the original order was without jurisdiction.

The Court allowed the appeal with costs and set aside both orders with costs, upon the ground that the original order was made without jurisdiction.