

application of a certain dissatisfied shareholder an order was made by him revoking his former order, and also another order which had been made by him on April 7, 1902, that no action should be proceeded with against the association except by leave of the Court.

Held, that the order of June 21, 1902, was an appealable order, for even if the appeal given to the Court of Appeal by s. 27 of the Winding-up Act was to be restricted in its construction to appeals from final orders, yet the order of June 21, 1902, might be properly described as a final order, since it put an end to the order of dissolution theretofore made.

Held, also (MACLENNAN, J.A., dissentiente), that the County Court Judge had no authority to make an order such as the one of June 21, 1902, inasmuch as he had no other material before him when making the order than he had had when making that of March 24, and there was no reason for saying that he had been misled in making the former order or that any fact had been suppressed; and that, therefore, the proper way to have attacked the order of March 24 was by appeal and not by application to the County Court to rescind it, after it had been acted upon and became effective.

Held, per MACLENNAN, J.A., that the County Court Judge had been misled when making the order of March 24, 1902, inasmuch as he had made it upon an affidavit that the affairs of the association had been duly wound up by the liquidators, which was not the case, and that the County Court Judge had therefore authority to make the order rescinding it of June 21, whether such authority is to be rested upon Con. Rule 358 or upon the well established and general practice of the Court, independent of express rules.

Shepley, K.C., and *C. D. Scott*, for respondents. *Aylesworth*, K.C., and *A. M. Macdonnell*, for liquidators and appellant.

HIGH COURT OF JUSTICE.

Meredith, J.] IN RE LLOYD AND PEGG. [Feb. 3.
Arbitration and award—Order for leave to enforce award—Time—
Arbitration Act, s. 45—Motion to set aside award.

An application under s. 13 of the Arbitration Act, R.S.O. 1897, c. 62, for an order giving leave to enforce an award, need not be made within six weeks after the publication of the award.

Sec. 45 of the Act does not apply to such an application, but only to applications to set aside awards.

An order under s. 13 is necessary when the reference has been made out of Court.

Objections properly the subject of a motion to set aside the award were not considered upon appeal from an order under s. 13.

A. B. Armstrong, for Pegg. *R. L. Johnston*, for Lloyd.