

It was argued that there was a right of appeal to a Divisional Court under sec. 34 (1) of the Act; but the appeal there contemplated is from an order, determination, or judgment of a Surrogate Court, which is sharply contrasted with the right given by sub-sec. 5 to appeal from any order, decision, or determination of the Judge of a Surrogate Court on the taking of accounts.

The fact that a right of appeal is given by sec. 69, sub-sec. 6, from the order of the Judge dealing with the claim upon its merits, and that no further or other right of appeal is given, precludes the idea that it was the intention of the Legislature that there should be an appeal from merely interlocutory orders.

The appeal here was not from the order directing the bringing of an action in the Supreme Court for the establishment of the claim—for the making of such an order is obligatory when it is desired by either party, but it was from the terms and conditions which the Judge had seen fit to impose. As there was no right of appeal, it would not be proper to discuss the propriety of the terms imposed.

The appeal should be quashed with costs to be paid by the appellant to the respondent.

RIDDELL, J., agreed with MIDDLETON, J.

LATCHFORD, J., agreed in the result, for reasons stated in writing.

MEREDITH, C.J.C.P., read a dissenting judgment.

Appeal quashed (MEREDITH, C.J.C.P., dissenting).

SECOND DIVISIONAL COURT.

OCTOBER 31ST, 1919.

*GOWANS v. CROCKER PRESS CO.

Promissory Note—Action in County Court upon Note for \$200 plus Interest and Notarial Fees—Note Made by Defendants and Held by Plaintiff—Protest Unnecessary—Bills of Exchange Act, secs. 109, 186 (2)—Action of Proper Competence of Division Court—Costs—Scale of Costs—Appeal.

Appeal by the defendants from the judgment of the County Court of the County of York in favour of the plaintiff in an action upon a promissory note.