

The Ontario Weekly Notes

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APPELLATE DIVISION.

DECEMBER 1ST, 1913.

RE NATIONAL HUSKER CO.

WORTHINGTON'S CASE.

Company — Winding-up — Contributory — Subscription for Shares—Failure to Prove Fraud or Misrepresentation—Approval of Contract—Election—Finding of Master—Finding of Judge on Appeal—Further Appeal—Costs—Motion to Vacate Winding-up Order.

Appeal by E. P. Worthington from an order of MEREDITH, C.J.C.P., 4 O.W.N. 1077, dismissing without costs an appeal from an order of the Master in Ordinary, in a proceeding for the winding-up of the company, under the Dominion Winding-up Act, placing the appellant on the list of contributories for \$3,760, the balance due upon a subscription for \$5,000 worth of shares.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

W. E. Raney, K.C., for the appellant.

J. M. Ferguson, for the liquidator, the respondent.

The judgment of the Court was delivered by MEREDITH, C. J.O.:—The winding-up order was made on the 6th July, 1911, and the appellant had, on the 27th of the previous January, begun an action in the High Court to rescind and set aside his subscription for 50 shares made on the 12th January, 1907, as having been obtained by fraud, and the action was at issue when the winding-up order was made. The action was tried before the Master in Ordinary on the 28th March, 14th and 27th June, and 4th October, 1912, and he found the issues in the action in favour of the defendants, and settled the appellant on the list of contributories in respect of 66 shares.