

THE
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BRITTON, J.

NOVEMBER 7TH, 1903.

WEEKLY COURT.

RE PAKENHAM PORK PACKING CO.

Company—Winding-up—Action for Calls before Winding-up Order—Counterclaim for Rescission of Application for Shares—Application for Leave to Proceed—Jurisdiction of Referee in Winding-up Proceedings.

Appeal by William Gorrell from order of J. A. McAndrew, an official referee, before whom a reference for the winding-up of the company was pending, refusing an application by the appellant for an order directing that a certain action brought by the company (before the winding-up order) against the appellant and the appellant's counterclaim therein against the company be proceeded with notwithstanding the winding-up order.

George Bell, for the appellant.

S. B. Woods, for the liquidator.

BRITTON, J.—The action was for the unpaid calls upon 14 shares of preference stock and 7 shares of common stock. The counterclaim asked that Gorrell's application for the stock be cancelled and rescinded, on the ground of misrepresentations and of false and fraudulent statements in the prospectus, etc., on which statements Gorrell said he relied.

Issue was joined on the 29th April, 1903. On the 16th June, 1903, the winding up order was made. On the 26th September Gorrell applied to the referee for leave to proceed in the action, pursuant to sec. 16 of the Winding-up Act, R. S. C. ch. 129.