contended that it was not only a creditor but a preferred creditor, because its money was deposited in a separate account and earmarked.

The learned Judge agreed with the Master that, while nominally the company was dealt with in the negotiations for membership, it was in reality a representative of the company who was to be and was selected and elected. The certificate issued in the name of the company's representative, and was received by it without protest or objection.

The conclusion of the Master that the company was not a creditor at all was wrong. It was competent for the directors, finding that improper representations had been made, to offer to cancel the certificate and return the money received. When the company accepted the club's proposal and returned the certificate, the club became indebted to the company, and the company became a creditor.

But the mere placing of the money in a bank account with other moneys—against which cheques were apparently drawn from time to time—could not be said to raise any trust in favour of the company for the amount of the money paid by it.

The appellant company should be declared to be a creditor, but not a preferred creditor; and, as success upon the appeal was divided, there should be no order as to costs, except that the costs of the liquidator be paid out of the assets of the club.

SUTHERLAND, J., IN CHAMBERS. NOVEMBER 9TH, 1917.

*APPELBE v. WINDSOR SECURITY CO. OF CANADA LIMITED.

Mortgage—Action for Foreclosure—Mortgage Made in 1915—Renewal or Extension of Mortgage Made in 1911—Interest and Taxes not in Arrear—Principal Overdue—Mortgagors and Purchasers Relief Act, 1915, 5 Geo. V. ch. 22, sec. 2 (1)—Sec. 4 as Amended by 6 Geo. V. ch. 27, sec. 1.

Application by the defendants to dismiss the action, on the ground that it was brought without the leave of a Judge required by the Mortgagors and Purchasers Relief Act, 1915, 5 Geo. V. ch. 22, sec. 2 (1).