

could do that was the Supreme Court of Canada; and that at all events the defendants had a judgment against the bank and had a right to enforce it, the bank not appealing.

FALCONBRIDGE, C.J., made an order staying execution.

Raney, K.C., for the defendants, moved before MEREDITH, C.J.C.P., for leave to appeal to a Divisional Court from the order of FALCONBRIDGE, C.J., citing the Supreme Court Rule 136 and *Union Investment Co. v. Wells*, 41 S. C. R. 244.

Gamble, K.C., for the plaintiffs, relied on the Supreme Court Act, R. S. C. 1906, ch. 139, sec. 58; Con. Rule 818 (b); *Hargrove v. Royal Templars*, 2 O. L. R. 126; *Tinsley v. Toronto R. W. Co.*, 12 O. W. R. 511; *Shelfer v. City of London*, [1895] 2 Ch. 388; *Dueber Watch Co. v. Taggart*, 19 P. R. 233; *Earle v. Burland*, 8 O. L. R. 174.

MEREDITH, C.J. (oral):—The case which Mr. Raney has cited, *Union Investment Co. v. Wells*, 41 S. C. R. 244, shews that the Supreme Court has, at a certain stage at all events of the proceedings, stayed proceedings upon its judgment pending an application for leave to appeal to the Privy Council, but I think that it will be found that that power is exercised only where the appellate Court, the Supreme Court, had not certified its judgment to the Court below under sec. 58 of the Supreme Court Act.

I have no doubt whatever that when the Supreme Court has certified its decision to the Court below, and its decision becomes a judgment of that Court, it is competent for the latter Court, which is in this case the High Court, to stay proceedings in a proper case for exercising that jurisdiction.

It is conceded that as between Thompson and the company there ought to be a stay. I understand that counsel have agreed that the security which was given upon an application to the Supreme Court for a stay shall stand as security for the costs awarded to the defendants. It seems to me, therefore, that the proper order is, and that the Chief Justice of the King's Bench properly directed, that the execution shall not be enforced against the plaintiffs until the determination of the appeal, and no leave to appeal from his direction should therefore be given. I cannot see that any substantial right is involved.

Costs to the plaintiff in the appeal.