Judge thus sitting in Chambers, unless it is one made purely in the exercise of his discretion, an appeal, in my opinion, lies to the full Court: Arch. Prac., vol. 2, p. 1,609.

Then, secondly, I do not think that the order in question is a purely discretionary order. The general rule and the right of the appellant is that, save in the excepted cases, proceedings below are stayed upon the appeal being perfected. Nevertheless, if " the Court or a Judge thereof" otherwise orders, the stay of execution may be removed. A proper case must be made out for allowing the respondent to enforce what has not yet become a final judgment, the appeal being a step in the cause.

Upon the whole, after having given the matter a good deal of consideration, we are all of opinion that, under the circumstances, an order for leave to issue execution ought not to go. The appeal appears to be prosecuted in good faith, and on substantial grounds. The defendant is carrying on his business in the usual way, and the effect of an execution will practically be to close it up, and possibly to place the defendant in a situation from which he will find it difficult, if not impossible, to recover if his appeal should be successful. The plaintiffs do not make a prima facie case against the bona fides of the instruments which they propose to attack. They desire to proceed by way of seizure and interpleader, but they can proceed quite as effectively by way of action, and, while the rights of the parties are in suspense, the method likely to be least injurious to the defendant ought to be followed. Apart from the property which it is desired to reach by impeaching the chattel mortgages there seems to be nothing to be secured or laid hold of by the execution, and therefore as to neither of the defendants does it appear that there is any special advantage gained in the nature of security, etc., by removing the stay. The order will therefore be discharged, and the costs of appeal, and of the motion it deals with, will be costs in the appeal.