

At the conclusion of the argument, the judgment of the Court was delivered by MEREDITH, C.J.C.P., who said that objection was taken to the application on the ground that an application had been previously made to and refused by a Judge of the High Court Division.

Notwithstanding, but subject to, the objection, the application had been heard, and it had been very fully discussed in all its phases; indeed, counsel for the applicants had been heard upon it as fully as if it were really an appeal, not merely an application for leave to appeal.

As the applicants had failed to make out any case upon the merits, it might not be necessary to consider the interesting questions discussed as to the effect of the recent legislation—whether or not successive applications for leave to appeal might be made, and, if so, to what extent an application such as this would be in substance an appeal to this Court from the order of the Judge refusing a previous application for leave, and so would not be anything extraordinary, although without such legislation it might be so considered. See *Ex p. Stevenson*, [1892] 1 Q.B. 394, 609; *Re Central Bank of Canada* (1897), 17 P.R. 395. But an application to a Judge of the High Court Division after a refusal by this Court would seem to be out of the question.

All the members of the Court thought that, upon the merits, no case for leave to appeal had been made out, and the motion should be disposed of on that ground, without real consideration of any of the questions arising out of the recent legislation.

The applicants sought in the winding-up proceedings to be paid, out of the assets of the bank, \$3,000 each and interest; the \$3,000 being the price paid by each of them for stock in a brewing company—stock in respect of which they became active directors in the management of the concern, upon which they received dividends, which, as directors, they took part in declaring. The substance of their claims was, that their payments for the stock were obtained by fraud—against which the bank's agent, at the time when the transaction took place, ought to have protected them; and that the bank received and had the benefit of their money so obtained.

The story of the claimants was an extraordinary one; the claims were stale claims; the transactions took place about 13 years ago, and the applicants admitted knowledge of the grounds of their claims, now made, as long ago as 1910. [The learned Chief Justice referred to other circumstances and facts shewn by the evidence.]