

# The Ontario Weekly Notes

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## HIGH COURT OF JUSTICE.

MEREDITH, C.J.C.P., IN CHAMBERS.

OCTOBER 19TH, 1909.

THOMPSON v. EQUITY FIRE INSURANCE CO.

*Appeal to Privy Council—Judgment of Supreme Court of Canada—Application to Stay Execution—Forum—Judgment Certified to Court below—High Court—Order Staying Execution—Leave to Appeal.*

The appeal of the defendants from the judgment of the Court of Appeal, 17 O. L. R. 214, was allowed: Equity Fire Insurance Co. v. Thompson, 41 S. C. R. 491; and the plaintiffs applied to a Judge of the Supreme Court of Canada, after the judgment of that Court had been certified to the High Court of Justice, and the defendants' costs taxed, for a stay of proceedings, and an order was made staying the proceedings, on security being given, until the disposal of an application for leave to appeal to the Privy Council. Security was given in a manner agreed to by the parties. The application for leave to appeal was made on behalf of the plaintiff Thompson only, and, when the defendants found that the plaintiffs the Union Bank were not appealing, they issued an execution against the bank for the costs.

H. D. Gamble, K.C., for the plaintiffs, moved in the High Court before FALCONBRIDGE, C.J.K.B., to stay that execution, on the ground that the bank held the policy as security for a loan, and that if they were made to pay the costs, the plaintiff Thompson would have to pay them to the bank, and they would be lost to him.

W. E. Raney, K.C., for the defendants, contended that the High Court had no jurisdiction to stay execution; the only Court that