

further directions and intends asking the Supreme Court upon this appeal to consider the questions dealt with upon the reference and the Judge, Divisional Court, and Court of Appeal upon appeal from the report. It is not for me to discuss what the Supreme Court may do upon the appeal coming before them. *Desaulniers v. Payette*, 35 S.C.R. 1, seems to indicate that upon an appeal the Court may be bound by an interlocutory judgment as to which there is no appeal, and that the only question open to review is the very question to be determined in the Court below upon the motion before it. Upon the motion upon further directions the only question before me was the proper judgment upon the report. The only material I could look at was the pleadings, the judgment of reference, the report, and the order varying that report. These were conclusive upon me and I could not, even had I so desired, go beyond them, and I so hold. This is in accordance with the practice as very well settled. See *Downey v. Roaf*, 6 P.R. 89. There has been some difference of opinion as to what may be looked at upon the question of costs. So far as I know there never has been any difference of opinion upon this question. I must settle this case in accordance with my ruling and exclude everything except the pleadings, judgment, report, and order on appeal therefrom. Costs in the appeal. R. S. Cassels, K.C., for the plaintiff. F. E. Hodgins, K.C., for the defendant.

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FARMERS BANK v. TODD—MIDDLETON, J.—JUNE 23.

*Banks and Banking—Bills of Exchange and Promissory Notes—Payment—Debtor and Creditor.*—Appeal by the liquidator of the Farmers' Bank from the award of an arbitrator. Judgment: The Farmers' Bank had authority to receive money and had no authority to substitute their own liability as debtors. What was done they had no right to do and Todd and Cook never paid the notes. They asked the Farmers' Bank to do so for them and the bank undertook to do so. Had it complied with its undertaking no dispute would have arisen. *Donogh v. Gillespie*, 21 A.R. 292, is precisely in point and binds me. The liquidator's appeal must be dismissed with costs, and the cross-appeals must be allowed. The arbitrator has no right to make the successful parties pay the costs as he has done by allowing them to be deducted from their fund. The award must be amended in this respect by directing the liquidator to pay the other claimants (*Conger Co. and Steele Briggs Seed Co.*) \$100 for