

company of the Syracuse concern, just as the Trenton factory will be. If the by-law stands, it will be quite possible for these same persons, either from their position as creditors of the Alliston company or creditors of its chief shareholder, and as controlling that company's financial affairs, to compel or induce the transfer of the plant and machinery of the Alliston company to Trenton.

If this view is not sound—if the legal entity is alone to be considered—the prohibition in the statute will be ineffective.

The by-law should be quashed with costs.

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HODGINS, J.A., IN CHAMBERS.

JANUARY 3RD, 1917.

MITCHELL v. FIDELITY AND CASUALTY CO. OF NEW YORK.

*Appeal—Leave to Appeal to Privy Council Given by Judicial Committee—Power of Court below to Stay Execution—Decision of Judge in Chambers—Leave to Appeal to Divisional Court—Conflicting Decisions—Privy Council Appeals Act, R.S.O. 1914 ch. 54.*

Motion by the defendants for leave to appeal from an order of RIDDELL, J., in Chambers, in so far as it refused an application for a fiat to stay execution. The order allowed the security on an appeal to the Privy Council from the judgment of a Divisional Court, leave to appeal having been obtained from the Judicial Committee.

P. E. F. Smily, for the defendants.

J. H. Fraser, for the plaintiff.

HODGINS, J.A., in a written judgment, said that the view of RIDDELL, J., was, that the Privy Council Appeals Act, R.S.O. 1914 ch. 54, applied solely to appeals as of right, and that there is no power under it to stay execution in cases where the Judicial Committee has given leave.

The power to stay, in somewhat similar circumstances, has been considered and affirmed in *Sharpe v. White* (1910), 20 O.L.R. 575; and in *Hughes v. Cordova Mines Limited* (1915),