pending an appeal by these defendants to the Supreme Court of Canada from that judgment.

By the injunction these defendants were restrained from entering upon, traversing, or in any way trespassing upon or doing damage to the lane in question in the action.

These defendants had launched their appeal to the Supreme Court of Canada and had given security for the costs of it.

The parties agreed that, pending the disposition of the appeal, the judgment so far as it awarded the payment of damages and costs should not be enforced, but they had not been able to reach a similar agreement as to the enforcement of the injunction; and the defendants enjoined now sought to stay the operation of it.

The motion was heard in the Weekly Court at Toronto.

Strachan Johnston, K. C., for the defendants O'Brien, McLean, and Verrall.

John T. Small, K.C., for the plaintiffs.

ROSE, J., in a written judgment, said that by the Supreme Court Act, R.S.C. 1906 ch. 139, sec. 76, the perfecting of the security for costs effected a stay of execution in the original cause, except in certain cases which need not here be considered; but, while the execution of the judgment is stayed, the injunction seems to remain in force (McLaren v. Caldwell (1882), 29 Gr. 438); and the defendants feared that, if they continued to pass through the lane as they had been doing, they were in danger of a motion to commit.

Bland v. Brown (1916), 37 O.L.R. 534, was a different case from this; and it might be that the danger apprehended by the defendants was a real one.

The learned Judge, after referring to the circumstances of the case, said that, if he had the power to stay the operation of the injunction, he ought to exercise it.

As to the power, what was said was, that, although the injunction was contained in a judgment which a Divisional Court of the Appellate Division directed to be entered, the judgment was the judgment of the High Court Division, and that a Judge of that Division, exercising the power of the Court pursuant to sec. 43 of the Judicature Act, had power to stay the operation of it; and the cases seemed to support the argument: Mitchell v. Fidelity and Casualty Co. of New York (1917), 38 O.L.R. 543; Sharpe v. White (1910), 20 O.L.R. 575; Hargrave v. Royal Templars of Temperance (1901), 2 O.L.R. 126; Judicature Act, sec. 16 (*f*); Holmested's Judicature Act, 4th ed., pp. 158, 168.