

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

MAY 29TH, 1915.

\*AUGUSTINE AUTOMATIC ROTARY ENGINE CO.  
LIMITED v. SATURDAY NIGHT LIMITED.

*Appeal—Leave to Appeal to Divisional Court from Order of Judge in Chambers—Rule 507—Libel—Newspaper—Security for Costs—Dismissal of Action—Libel and Slander Act, R.S.O. 1914 ch. 71, sec. 12—Costs of Motion for Leave.*

Motion by the plaintiff for leave to appeal to a Divisional Court from the order of MIDDLETON, J., ante 426, requiring the plaintiffs to give security for the defendants' costs of an action for libel—the alleged libellous publication being in the defendants' newspaper. The order of MIDDLETON, J., was made upon appeal from an order of the Master in Chambers refusing security for costs. By the order of MIDDLETON, J., the action was to be dismissed unless the security was given within a reasonable time.

W. J. Elliott, for the plaintiffs.

G. M. Clark, for the defendants.

MEREDITH, C.J.C.P., in a written opinion, discussed the provisions of Rule 507 and of sec. 12 of the Libel and Slander Act, R.S.O. 1914 ch. 71. He referred to *Paladino v. Gustin* (1897), 17 P.R. 553; *Robinson v. Morris* (1908), 15 O.L.R. 649; *Stewart v. Royds* (1904), 118 L.T.J. 176; and *Robinson v. Mills* (1909), 19 O.L.R. 162. He suggested that the order of Middleton, J., was perhaps an order finally disposing of the action, in which case, under clause (1) of Rule 507, there would be an appeal to a Divisional Court without leave; but, if leave was necessary, his opinion, for which he gave the grounds, was, that there was good reason to doubt the correctness of the order of Middleton, J., and that an appeal therefrom would involve matters of such importance that leave to appeal should be given: Rule 507 (3) (b). Such leave as he had power to give was accordingly given; and the costs of the motion were made costs in the action to the plaintiffs in any event.