

The appeal was heard by MEREDITH, C.J.O., MACLAREN, HODGINS, and FERGUSON, JJ.A.

Gideon Grant, for the appellants.

J. H. Fraser, for the plaintiff, respondent.

MEREDITH, C.J.O., reading the judgment of the Court, said that he agreed with the conclusion of RIDDELL, J., that sec. 10 of the Privy Council Appeals Act has application only to the appeals for which it provides; and the power to stay execution must, therefore, depend upon the inherent jurisdiction which the Court possesses over proceedings in it.

That the Court has inherent jurisdiction to stay execution is beyond doubt: Halsbury's Laws of England, vol. 14, para. 60; *Polini v. Gray* (1879), 12 Ch.D. 438; *Warwick v. Bruce* (1815), 4 M. & S. 140; *Yates v. Dublin Steam Packet Co.* (1840), 6 M. & W. 77; *Barker v. Lavery* (1885), 14 Q.B.D. 769; *Cotton v. Corby* (1859), 5 U.C.L.J.O.S. 67; *Sharpe v. White* (1910), 20 O.L.R. 575; *Hughes v. Cordova Mines Limited* (1915), 8 O.W.N. 372; *The Khedivé* (1879), 5 P.D. 1.

The Indian cases, *Mohesh Chandra Dhal v. Satrugan Dhal* (1899), L.R. 26 Ind. App. 281, and *Nityamoni Dasi v. Madhu Sudan Sen* (1911), L.R. 38 Ind. App. 74, do not help upon the question of inherent jurisdiction, but are important as shewing that the fact that special leave to appeal to His Majesty in His Privy Council has been granted will not prevent the Court appealed from exercising any power it may possess to stay execution on the judgment appealed from.

Reference also to *Quinlan v. Child*, [1900] A.C. 496.

The appeal should be allowed, and an order made staying execution until after the disposition of the appeal to the Privy Council; no costs of the appeal to either party.

FIRST DIVISIONAL COURT.

FEBRUARY 7TH, 1917.

BANK OF OTTAWA v. DICK AND WALKER.

Banks and Banking—Money Applied by Bank for Purposes of a Business—Ownership of Business—Liability for Money—Contract—Evidence—Finding of Fact of Trial Judge—Appeal.

Appeal by the plaintiffs from the judgment of KELLY, J., ante 180.