

in order to save expense in printing five cases, to have but one printed case and one argument, the appeals were ordered to proceed as one appeal.

The manifest intent and meaning of the order is, that the appeals are to be heard together upon one case to be printed and used for the purposes of the argument of the appeals. In this way they were to be proceeded with as one appeal. But there is no consolidation of the actions or any proceeding whereby they were to be thereafter continued otherwise than as separate actions. Judgment in each case having been entered under Con. Rule 635 (2), the judgment of this Court is to be certified by the Registrar and entered in the proper judgment book, as Con. Rule 818 directs. The case is then no longer in the Court of Appeal, and all subsequent proceedings are to be taken in the High Court: *Hargrave v. Royal Templars*, 2 O.L.R. 126.

There being at present of record in the High Court a judgment in each of the five cases, which has been reversed by this Court, the directions contained in Rule 818 are best given effect to by the issue of a certificate of the judgment of this Court in each case, thus leaving each record as it would have been if the judgment at the trial had been what it now is. This is what would have been done if there had been five cases not argued together; and what was done in these cases did not make them any the less separate actions as regards all subsequent proceedings.

The second objection is, that the respondents are directed to pay the Sovereign Bank's costs of the appeal. The bank was brought in at the instance of the other respondents, as a third party who was liable to indemnify them against the plaintiff's claim. At the trial the plaintiff's claim against the other respondents having been dismissed, the claim against the third party was also dismissed without costs.

The plaintiff, upon appealing to this Court, made the third party a respondent, and he appears to have treated it as occupying that position throughout, but he did not and could not ask any relief against it. Nor did the other respondents take any steps to notify the third party of intention to ask for any relief against it upon the hearing of the appeal.

A third party against whom relief is asked by the defendants up to and inclusive of the trial is "a party affected by the appeal," within the meaning of Con. Rules 799 (2) and 811; and the plaintiff properly served the third party with the notices provided for by these Rules. But there his duty ended; and it was for the other respondents to take any further steps towards