

THE SUPREME COURT OF CANADA.

he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof; and also, in case the judgment is for the sale of property, and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency.

5. If the judgment appealed from directs the payment of money, either as a debt, or for damages or costs, execution thereon shall not be stayed until the appellant has given security to the satisfaction of the Court appealed from, or of a Judge thereof, that if the judgment, or any part thereof, be affirmed, the appellant will pay the amount thereby directed to be paid, or the part thereof as to which the judgment may be affirmed, if it be affirmed only as to part, and all damages awarded against the appellant on appeal.

32. If the judgment appealed from directs the delivery of perishable property, the Court appealed from, or a Judge thereof, may order the property to be sold, and the proceeds to be paid into Court, to abide the judgment in appeal.

33. When, on an appeal against any judgment, the Supreme Court affirms such judgment, interest shall be allowed for such time as execution has been delayed by the appeal.

34. When the security has been perfected and allowed, any Judge of the Court appealed from, may issue his fiat to the Sheriff to whom any execution on the judgment has issued, to stay the execution, and the execution shall be thereby stayed, whether a levy has been made under it or not.

35. If at the time of the receipt by the Sheriff of the fiat, or of a copy thereof, the money has been made or received by him, but not paid over to the party who issued the execution, the party appealing may demand back from the Sheriff the amount made or received under the execution, or so much thereof as is in his hands not paid over, and in default of payment by the Sheriff, upon such demand, the appellant may recover the same from him in an action for money had and received, or by means of an order or rule of the Court appealed from.

36. In the case of the death of one of several appellants pending the appeal to the Supreme Court, a suggestion may be filed of his death, and the proceedings may thereupon be continued at the suit of, and against the surviving appellant, as if he were the sole appellant, and such suggestion, if untrue, may be set aside on motion made to the Supreme Court, or a Judge thereof in chambers.

37. In case of the death of a sole appellant, or of all the appellants, the legal representative of the sole appellant, or of the last surviving appellant, may, by leave of the Supreme Court, or a Judge thereof, file a suggestion of the death, and that he is such legal representative, and the proceedings may thereupon be continued at the suit of, and against such legal representative, as the appellant; and if

no such suggestion be made, the respondent may proceed to an affirmance of the judgment, according to the practice of the Court, or take such other proceedings as he may be entitled to, and such suggestion, if untrue, may be set aside on motion by the Court, or a Judge thereof.

38. In the case of the death of one of several respondents, a suggestion may be filed of such death, and the proceedings may be continued against the surviving respondent, and such suggestion, if untrue, may be set aside on motion by the Supreme Court, or a Judge thereof.

39. In the case of the death of a sole respondent, or of all the respondents, the appellant may proceed, upon giving one month's notice of the appeal, and of his intention to continue the same, to the representative of the deceased party, or if no such notice can be given, then upon such notice to the parties interested, as a Judge of the Supreme Court may direct.

APPEAL TO THE QUEEN IN COUNCIL.

40. If any final judgment of the Supreme Court be given for, or in respect of any sum or matter at issue of or above the amount or value of *five hundred pounds sterling*, or if such judgment involves directly or indirectly, any claim, demand, or question to, or respecting property or any civil right, amounting to, or above the value of five hundred pounds sterling, any party feeling aggrieved by such judgment, may within *fourteen days* next after it is given, apply to the Supreme Court by motion or petition, for leave to appeal therefrom to Her Majesty in Her Privy Council.

41. Such appeal shall not be allowed, until the appellant has given security to the Supreme Court, or a Judge thereof, in a sum not exceeding *five hundred pounds sterling*, for the prosecution of the appeal and the payment of all such costs as may be awarded by Her Majesty, or by the Judicial Committee of Her Majesty's Privy Council, to the respondent: and the Supreme Court may either direct that its judgment so appealed from shall be carried into effect, or that upon the perfecting of such security as aforesaid, the execution of such judgment shall be suspended, subject to like conditions as are provided in section *thirty-one* with respect to appeals to the Supreme, or such of them as is or are applicable to the case, and security being given, as thereby required, to the satisfaction of the Supreme Court or a Judge thereof, that the appellant will obey the judgment of Her Majesty in Her Privy Council; and if such security be perfected within *three months* from the date of the motion or petition in appeal, then, but not otherwise, the Supreme Court shall allow the appeal.

42. The Supreme Court may, also, on the petition of any party feeling aggrieved by any preliminary or interlocutory judgment of the Court in any such case as is mentioned in