the applicants were not liable for business assessment, and directed that such assessment should be struck off. The city corporation then appealed to the County Court Judge, who on the 11th December, 1916, restored the business assessment. The applicants then appealed to the Ontario Railway and Municipal Board, pursuant to the provisions of the Assessment Act, R.S.O. 1914, ch. 195, sec. 80; the Board upheld the decision of the County Court Judge. Sub-section 6 of sec. 80 provides: "An appeal shall lie from the decision of the Board under this section to a Divisional Court upon all questions of law, but such appeal shall not lie unless leave to appeal is given by the said Court upon application of any party and upon hearing the parties and the Board."

The Divisional Court dismissed an application for leave for a further appeal, following Re Clark and Town of Leamington (1917), 11 O.W.N. 303, in which it was decided that hotels such as that of the applicants were liable for business assessments.

The learned Registrar referred to Grierson v. City of Edmonton, in which he had held that the decision of the District Court Judge of Edmonton was a judgment in that case of a Court of last resort within the meaning of sec. 41 of the Supreme Court Act. In the argument before the Supreme Court no objection was taken to its jurisdiction.

The fact that a further appeal would lie in these cases if leave were obtained from some outside authority, in the Alberta case the municipal council, in Ontario the Supreme Court of the Province, did not prevent the decision of the District Court Judge in the one case and the Ontario Railway and Municipal Board in the other being nevertheless the Court of last resort, within sec. 41 of the Supreme Court Act. To hold otherwise would be to say that the Provinces may, by suitable legislation, prevent an appeal to the Supreme Court of Canada, in the face of Dominion legislation expressly enacted for the purpose of conferring jurisdiction, something that the Judicial Committee has held cannot be done. Vide Crown Grain Co. v. Day, [1908] A.C. 504.

Motion granted; costs in the cause.