

WILLIAM R. PETERS (PLAINTIFF) . . . APPELLANT;

AND

JOSEPH PERRAS AND OTHERS (DE- }
FENDANTS) } RESPONDENTS.

1909
*Nov. 2.
*Nov. 3.

ON APPEAL FROM THE SUPREME COURT OF ALBERTA.

Jurisdiction—Appeal to Privy Council—Stay of proceedings.

When, as provided by sec. 58 of the "Supreme Court Act," a judgment of the court has been certified by the registrar to the proper officer of the court of original jurisdiction, and the latter has made all proper entries thereof the Supreme Court of Canada has no power to stay proceedings for the purpose of an appeal from said judgment to the Judicial Committee of the Privy Council. *Union Investment Co. v. Wells* (41 Can. S.C.R. 244) overruled.

MOTION, on behalf of the respondents, for stay of execution pending proceedings on an application for leave to appeal from the judgment of the Supreme Court of Canada(1) to the Judicial Committee of His Majesty's Privy Council.

The judgment allowing the appeal to the Supreme Court of Canada was rendered on 5th April, 1909; the minutes were settled and certified by the registrar of the Supreme Court of Canada on 26 June, 1909, and notice of the application for leave to appeal to the Privy Council was given in October, 1909. In the meantime the proper officer of the court of original

*PRESENT:—Sir Charles Fitzpatrick C.J. and Girouard, Davies, Idington, Duff and Anglin JJ.

(1) 42 Can. S.C.R. 244.

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jurisdiction (the Supreme Court of Alberta) had made all the proper and necessary entries thereof in the records of that court, as required by section 58 of the "Supreme Court Act," R.S.C. (1906) ch. 139, and a writ of execution had been issued therein.

N. G. Guthrie, for the motion.

C. H. Maclaren, *contra*.

The judgment of the court was delivered by

THE CHIEF JUSTICE.—When the judgment of this court has been finally certified by the registrar to the proper officer of the court of original jurisdiction, and all the proper and necessary entries thereof have been made, the subsequent proceedings with regard to the execution are to be taken as if the judgment had been pronounced in the court below. We are, therefore, without jurisdiction to grant the present application for a stay of proceedings. See *Thompson v. Equity Fire Ins. Co.* (1).

Motion refused.

Solicitors for the appellant: *Short, Cross & Biggar*.

Solicitors for the respondents: *Gariepy & Landry*.