

*Judgement of the Lords of the Judicial Committee
of the Privy Council on the Petition for
special leave to appeal in the case of the
Attorney-General of Nova Scotia v. Gregory
from the Supreme Court of Canada ; delivered
April 3rd, 1886.*

Present :

LORD BLACKBURN.

LORD HOBHOUSE.

SIR RICHARD COUCH.

IN this case Mr. Gregory obtained a verdict against the Halifax Company for eighty thousand dollars after a trial in the Supreme Court of Nova Scotia. The Company appealed to the Supreme Court of Canada, and the only real question was, whether forty thousand dollars of the eighty thousand should be paid to Mr. Hill instead of being paid to Mr. Gregory the Plaintiff. It was a matter of indifference to the Company whether they paid Hill or Gregory. Therefore the Company appealing were really acting on behalf of Hill, and it is agreed that Hill represented the Government of Nova Scotia, who now appear by their Attorney-General. Gregory obtained forty thousand dollars, part of the eighty thousand, from another source. That was then out of the question. He could not obtain that over again under his verdict against the Halifax Company. When the parties got before the Supreme Court of Canada it was thought that, as the case was then confined to the forty thousand dollars in which the Government of Nova Scotia alone was interested, it was better to have the real parties in direct conflict with

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one another. A special agreement was made for that purpose in the presence of Mr. Justice Strong and by the sanction of the Court. Upon that agreement the Attorney-General of Nova Scotia was to come in and consent to become a party to the cause, and to consent that the province of Nova Scotia should be bound by the order to be made on the appeal. Then the agreement goes on to say what the Court is to do, and it is in the form common to arbitration agreements. It does not say that when the Attorney-General of Nova Scotia has been substituted for the Halifax Company as a party the Court is to exercise all its ordinary jurisdiction in appeal, but it goes on to give the Court a number of special powers, and to restrict its power in some respects. The Respondent's right, that is Gregory's right, is to be limited to a claim for damages on certain grounds that are mentioned. The Court receives special power in determining the question to have regard to all equitable as well as legal rights of the parties arising from the facts and documents in evidence without reference to the pleadings or the present state of the record. Well, that obviously points to a question to which Mr. Bompas has referred at considerable length, viz., the question as to the validity of an agreement between Gregory and Hill, under which Hill claims the forty thousand dollars, and on which an opinion has been expressed apparently by one of the Judges that the agreement was obtained under undue pressure and influence. Then there are a number of other special provisions for the guidance of the Court. The Court is to have power to make such order as to costs as to it shall seem meet, and as it would have power to do in a suit in equity. Ultimately the agreement winds up by saying: "The order to be made pursuant to this agreement shall be considered

“ a final disposition of all contentions whether
“ now in litigation or not,” arising under the
articles which are the subject of dispute in the
suit.

Their Lordships consider that in deciding the
case the Supreme Court was not acting in its
ordinary jurisdiction as a Court of Appeal, but
was acting under the special reference made to it
under this agreement.

Their Lordships are disposed to think that
even if it were open to them to give leave to
appeal in this case, the questions raised are not
of sufficient magnitude or public interest to
induce them to depart from the ordinary rule,
that persons who have gone to the Supreme
Court of Canada and have there failed shall not
proceed to appeal to Her Majesty in Council;
but they do not go into that, because they
consider that in this case an appeal does not
lie to the Queen in Council.

Their Lordships think that this petition should
be dismissed with costs.

