

Judgment of the Lords of the Judicial Committee of the Privy Council on the petition for special leave to appeal in the cause entitled Prince v. Gagnon, from the Supreme Court of the Dominion of Canada ; delivered 25th November 1882.

Present :

LORD FITZGERALD.

SIR BARNES PEACOCK.

SIR RICHARD COUCH.

SIR ARTHUR HOBHOUSE.

THE petition before us is for liberty to appeal against a judgment of the Supreme Court of the Dominion of Canada.

The suit involved a question as to a sum of about 1,000*l.* On one side it was alleged that this sum ought to be taken into account, as it represented goods which were given upon a contract of sale by the father to the son on the occasion of the father relinquishing business in favour of the son at the time of the son's marriage. On the other hand, it was alleged that the transaction in question was not a sale, and that it was a gift from the father to the son executed by delivery of the goods in question to the son. There is no doubt the goods were manually delivered to the son ; and if it was intended to be a gift, the fact of that executed delivery, though without any writing, would be quite sufficient to vest the property in the son. That was the only matter in the end in controversy in the suit. On that subject evidence was given on both sides, and the Supreme Court of Athabaska, one of the Courts of the Province of Quebec, having heard the evidence on both sides, after due consideration of the whole of the evidence, came to the con-

R 4401. 50.--12/82. Wt. 3701.

clusion that the transaction amounted to an executed gift, and was not a sale. From that there was an appeal to the Court of Queen's Bench for the Province of Quebec, and that Court deduced a different inference from the facts in proof. They came to the conclusion that the party who alleged the gift had failed to prove it to be a gift, and was to be chargeable with the value of the goods as being goods sold and delivered, either sold and delivered at a stipulated price or upon a *quantum meruit*. Those two Courts were in conflict, and then came an appeal from the decision of the Court of Queen's Bench to the Supreme Court of the Dominion; and that Supreme Court, with the advantage of the light cast upon the case by the decisions of the Court at Athabaska and the Court of Queen's Bench,—came to the conclusion that the decision of the Court of Queen's Bench was erroneous, and should be reversed; and accordingly they reversed that judgment. Their Lordships, having looked into the case, see that it involves nothing whatever beyond this 1,000*l.* There is no grave question of law or of public interest involved in its decision that carries with it any after-consequences, nor is it clear that beyond the litigants there are any parties interested in it. The question for their Lordships to determine is whether, under such circumstances, they will recommend Her Majesty to grant to the Petitioners special leave to appeal.

Before the constitution of the Supreme Court of the Dominion of Canada there was a right to appeal from the Courts then in existence where the value of the matter in controversy was beyond 500*l.*, but that does not apply to the Supreme Court. The language of the legislature of the Dominion is: "The judgment of the Supreme Court shall
" in all cases be final and conclusive, saving any
" right which Her Majesty may be graciously

“ pleased to exercise by virtue of her Royal
“ Prerogative;” and their Lordships are not
prepared to advise Her Majesty to exercise her
Prerogative by admitting an appeal to Her
Majesty in Council from the Supreme Court of
the Dominion, save where the case is of gravity
involving matter of public interest or some im-
portant question of law, or affecting property of
considerable amount, or where the case is other-
wise of some public importance or of a very
substantial character.

Their Lordships proceed now to apply the
principles laid down by this Board in the case of
Johnston v. The Minister of St. Andrews (L.R.P.C.
III., p. 159), and in the case of *Valin v. Langlois*
(L.R.P.C. V., p. 115), to the present Petition;
and as they are of opinion that they ought not to
advise Her Majesty to exercise her Prerogative
by admitting an appeal in a case depending on
a disputed matter of fact, in which there is no
question involved of any magnitude or of any
public interest or importance, their Lordships will
humbly advise Her Majesty to refuse liberty to
appeal in this case.

