

*Judgment of the Lords of the Judicial Committee of the Privy Council on a Petition for leave to Appeal in the case of Caldwell and another v. McLaren, from the Supreme Court of the Dominion of Canada; delivered March 6th. 1883.*

Present :

SIR BARNES PEACOCK.

SIR ROBERT P. COLLIER.

SIR RICHARD COUCH.

SIR ARTHUR HOBHOUSE.

IN the case of *Prince v. Gagnon*, from the Supreme Court of the Dominion of Canada, their Lordships said they were not prepared to advise Her Majesty to exercise Her Prerogative or admit an appeal to Her Majesty in Council from the Supreme Court of the Dominion, save where the case was of gravity involving matters of public interest or some important question of law, or affecting property of considerable amount, or where the case was otherwise of some public importance or of a very substantial character. Their Lordships think that this case falls entirely within the rule there laid down. The question for their Lordships to consider is, Is there a *prima facie* case made to induce their Lordships to grant leave to appeal from the decision of the Supreme Court in this case? The Judges of the Supreme Court were unanimous; but they overruled the decision of the Appellate Court of the Province, in which the Judges were almost unanimous, there being only one who dissented. Looking at all the circumstances of the case, their Lordships think this is a case which may be said to be arguable,

R 6016. 50.—3/83. Wt. 3701. E. & S.

without expressing the slightest opinion as to what may be the result of this decision. Their Lordships have also taken into consideration the fact that in this case the rights of parties will not be delayed. The Plaintiff has got his injunction, and the only difficulty is with reference to the expense of this Appeal. The Appellants are willing to bear that expense, and they come to ask Her Majesty to exercise Her Prerogative. Their Lordships think that, under all the circumstances, it would be right to advise Her Majesty to admit this Appeal; but that is upon condition of a sufficient sum being deposited to bear the expenses. Looking to the immense mass of paper here, their Lordships think that the ordinary sum of 300*l.* is hardly sufficient to cover the expense; they, therefore, think that it ought to be upon the deposit of the sum of 500*l.* There is one other point to which their Lordships wish to allude; that is the objection which has been made to the jurisdiction of the Dominion Parliament to pass the law with reference to the Supreme Court of Canada, and also the power of the Supreme Court of Canada to entertain such an appeal as this, which involves a question of the construction of the Acts of the Provincial Parliament. Their Lordships do not think there is any ground for allowing that question to be raised on the hearing of the Appeal.