

mary order for the enforcement of a compromise: *Graves v. Graves*, 69 L. T. N. S. 420.

I have examined all the cases referred to by counsel and many others, both in England and in Ontario, in which the right to enforce, upon summons or motion, an agreement for the compromise of an action has been considered. In no case in which the Court has made such an order as the applicants ask do the circumstances at all resemble those with which I have to deal.

Here, whether with justification or not, counsel for Thomas Crawford contests the validity of the agreement for compromise; Mr. Clarke says that it is not binding upon him personally; the agreement deals with matters which would not have been the subject of any judgment pronounced upon the issues involved in the actions. Looking at the agreement itself, it seems manifest that all that the parties contemplated should be made the subject of a judgment is contained in the first sentence—"We agree that all appeals are to be dismissed without costs here or below." Thus far the agreement dealt with the prosecution of the litigation and with the very matter of that litigation; the rest of the agreement, providing for the formation of a company and the apportionment of its stock among the interested parties, covers matters quite *dehors* the records in the actions. Not only is there no provision in the agreement that its latter terms shall become a rule of Court, or shall take the form of a judgment or order of the Court, but the very form of the agreement itself, which appears to distinctly separate that which is to be embodied in the judgment from the other terms, indicates an intention that as to such other terms the parties were content to rely upon whatever rights the agreement might give them, apart from any judgment in the pending actions. If it had been intended otherwise, no doubt an effort would have been made to have the latter terms of the agreement embodied in the judgment of the Supreme Court of Canada dismissing the appeals. That this was not done affords strong presumptive evidence that it was not intended that these terms of the agreement should be made effective by a judgment in the pending actions.

[Reference to *Scully v. Lord Dundonald*, 8 Ch. D. 658; *Alliance Pure White Lead Syndicate v. McIvor's Patents*.