

conduct shewed it to have been of a gross character, and was uncontradicted; the jury nevertheless found that it did not justify the defendants in dismissing the plaintiff, and gave a verdict in his favour for £875. This verdict was affirmed on appeal by the Court of Appeal for New Zealand. The Judicial Committee of the Privy Council (Lords Macnaghten, Davey, James and Robertson, and Sir A. Wilson) thought that the verdict was so unsatisfactory that it could not be allowed to stand and a new trial was ordered. The costs of all the proceedings below were ordered to abide the event of the new trial, but the plaintiff was ordered to pay the costs of the appeal to His Majesty in Council.

PRACTICE—APPEAL ADMITTED BY COURT BELOW DISMISSED AS INCOMPETENT—SPECIAL LEAVE TO APPEAL REFUSED.

In *Grieve v. Tasker* (1906) A.C. 132, an appeal to His Majesty in Council had been allowed by the Supreme Court of Newfoundland, but on motion of the respondent it was dismissed as incompetent and a special application for leave to appeal was also dismissed by the Judicial Committee. The action had been commenced in or prior to 1897 to recover a sum of money, and on October 13, 1897, judgment was awarded in favour of the plaintiff, declaring defendant's liability. On September 27, 1897, a letter was sent to the defendant from Scotland informing him that a discharge had been granted to him in bankruptcy. The defendant made no application to set up this defence, and on April 6, 1898, the Court pronounced a final decree for payment of \$22,295 by the defendant. He then applied for leave to appeal to the Queen in Council, and afterwards abandoned the appeal. In June, 1899, he moved to set aside the judgment, or to limit its effect to its being made the subject of proof in the bankruptcy proceedings, which motion was dismissed June 7, 1899. He made another application of the same kind, which was also refused August 29, 1904. On December 1, 1904, the plaintiff obtained leave to issue execution, and on March 20, 1905, the defendant made a similar application to that of August, 1904, to restrain execution, which was refused, and from that order he now appealed to the King in Council. But inasmuch as it was clear that no substantial relief could be given to the defendant without his getting rid of the judgment of 1897 and 1898, the Judicial Committee regarded the appeal as altogether futile and dismissed it as incompetent.