

1882; his death did not take place until Nov. 15, 1883. At the time of his death his right of action was barred, and the question which the Privy Council had to determine was whether under the circumstances the widow could maintain the action. This depended on whether the right of action in the widow was a separate and distinct right of action from that to which her deceased husband was entitled. Their Lordships came to the conclusion that the causes of action were distinct, and that the widow was entitled to sue, although her husband at the time of his death was barred by the Statute of Limitations. The judgment of the Supreme Court was reversed. In *White v. Parker*, 16 S.C.R. 699, which is very briefly reported, the Supreme Court held that an action brought by a deceased person to recover damages for injuries which resulted in his death could not be revived by his representatives entitled to sue under Lord Campbell's Act (see R.S.O., c. 135), because the causes of action were distinct; but in the late case of *Wood v. Gray*, 93 L.T. 103, the House of Lords have determined that where a person had commenced such an action, and died before the action was brought to trial, his representatives entitled under Lord Campbell's Act cannot bring a new action under that Act in respect of the same matter; and we should infer, though that is not stated, that their only remedy is to revive the action commenced by the deceased, which our Supreme Court has held, as we have seen, cannot be done.

PREROGATIVE—INTERFERENCE WITH PRIVATE RIGHTS—TREATIES—ACTS OF STATE.

In *Walker v. Baird* (1892), A.C. 491, an important point of constitutional law is considered by the Privy Council. It will be remembered that the action was brought against a captain of the Royal Navy by a person engaged in the lobster fishery in Newfoundland, for an alleged wrongful interference by the defendant with the plaintiff's rights of property. The defendant set up that the acts in question were done in pursuance of orders received from the Lords Commissioners of the Admiralty by command of Her Majesty for the purpose of putting in force an agreement embodied in a *modus vivendi*, which, as an act of State and public policy, had been by Her Majesty entered into with the Government of France, and the defendant contended that the alleged trespass, being an act of State and involving the construction of treaties and of the *modus vivendi*, could not be inquired into in a court of law; but the Privy Council, without determining how far, if at all, private rights can be interfered with by treaties with foreign powers, or otherwise than by an Act of the legislature, was nevertheless of opinion that the court below was correct in deciding that, as between the Queen's subjects, the court had jurisdiction to inquire into the matter, and that the question of the validity, interpretation, and effect of all instruments and evidences of title and authority affecting the matter in dispute rest, in the first place, in the courts of competent jurisdiction within which the cause of action arises.