

997, the defendants moved for nonsuit at the trial, which was refused, but leave was reserved for a motion to the full Court for a nonsuit on the whole evidence. So in *Andreas v. Canadian Pac. Ry. Co.*, 37 S. C. R. 1, the motion for nonsuit was on the case generally; in none of the cases was it made to enter a nonsuit or verdict on a point reserved at the trial.

NEW TRIAL.

(b) Upon any motion for a new trial.

Prior to the passing of the Act 54 & 55 V. c. 25 the appeal was given only from the judgment on a motion for a new trial on the ground that the judge had not ruled according to law which, as was held in *Halifax Street Ry. Co. v. Joyce*, 17 S. C. R. 709, was applicable to jury cases only. Under that provision an appeal was quashed where the motion for a new trial was based on the insufficiency of the answers of the jury to one of the questions submitted. *Barrington v. Scottish Union Ins. Co.*, 18 S. C. R. 615. And in *Accident Ins. Co. v. McLachlan*, 18 S. C. R. 627, where the Court appealed from ordered a new trial *suo motu* an appeal from such judgment was quashed, as it was not a judgment "upon a motion for a new trial." See also *O'Sullivan v. Lake*, 16 S. C. R. 636. On the other hand the appeal was entertained and disposed of in *Vaughan v. Wood*, 18 S. C. R. 703, where the new trial was granted because the trial judge had improperly ordered a nonsuit, and in *Halifax Banking Co. v. Smith*, 18 S. C. R. 710, where it was granted for improper admission and rejection of evidence.

By the Act passed in 1891, the section was amended by striking out the words "on the ground that the judge had not ruled according to law," and since then an appeal lies "from the judgment on any motion for a new trial" as given above. After the amendment no appeal from a judgment on motion for a new trial was quashed by the court, until *Canada Carriage Co. v. Lea*, 37 S. C. R. 672, was decided in Nov. 1906, as was also *Toronto Ry. Co. v. King*, in the following term.

These decisions have made a radical change in the jurisprudence of the Court under this sub-section. They were