

the jurisprudence of this Court on the point was not uniform. The citation is unfortunate, for in that case we allowed the appeal, but we sent the case back to the Court below on account of irregularities. It came back, and on the merits we confirmed the judgment. If any doubt should exist as to the correctness of the opinion which the Court expresses, there can be no question at all events of the uniformity of the jurisprudence of this Court, for there is still another case of *McLaren & Corporation of Buckingham* (June, 1875), where we decided exactly as in this case. The motion of respondents is dismissed with costs.

Brooks, Camirand & Hurd for Appellants.
Hall, White & Panneton for respondent.

JOLY et al., Appellants, and MACDONALD,
Respondent.

Appeal to P. C. from judgment dissolving an injunction.

SIR A. A. DORION, C. J. The respondent moved for leave to appeal to the Privy Council from a judgment of this Court setting aside an injunction. The respondent claimed that he should be maintained in possession of the railway which he was constructing for the Provincial Government, until he had been paid a million of dollars which he said was due to him. The Court below gave judgment in favor of Macdonald, and this Court reversed the judgment. The question now was whether Macdonald had an appeal to the Privy Council. The Court was of opinion that the appeal should be granted. Whether the case were considered as relating to the possession of real estate, or as involving an amount of a million dollars, Macdonald had a right to go to the Privy Council. The statute respecting injunctions stated that there should be an appeal in these as in other cases. Motion granted, security to be given within six weeks.

E. Carter, Q. C., for Appellants.
Doutre & Doutre for Respondent.

FLETCHER, Appellant, and MUTUAL FIRE INSURANCE Co., Respondent.

Procedure—Record before Court of Review.

SIR A. A. DORION, C. J. This was a motion

by the appellant for a rule against the Joint Prothonotary of the district of Sherbrooke to compel them to return a record. They answered that the record was before the Court of Review upon a motion for a new trial. There was no fault on the part of the Prothonotary. The proper course to adopt would be to ask the Court of Review for an order that the record be transmitted to the Court below, and then it could be brought up to this Court. No doubt the Court of Review, on being apprised of the appeal, would grant such order. Motion rejected.

Ives, Brown & Merry for Appellant.
Brooks, Camirand & Hurd for Respondent.

ANGER et al., Appellants, and O'MEARA,
Respondent.

Procedure—Report of distribution—Record missing—Refusal to give order for monies.

SIR A. A. DORION, C. J. A report of distribution was made in the Court below; the report was never homologated, but a contestation was filed, and the judgment dismissed the contestation. From that judgment the four contestants had appealed to this Court. It appeared, however, that the portion of the record which referred to the contestation could not be found. The case had remained in that position for several terms. Now an application was made under these circumstances. The appeal was by four heirs who claimed that they had a right to a certain sum of money. The appeal had been desisted from by three of the appellants, and there now remained, apparently, only one appellant. The respondent now moved, that as there were seven entitled to the money, and only one had appealed, six-sevenths of the money lying in the Sheriff's hands be paid over to them. This appeared at first sight to be reasonable enough, but the difficulty was that the Court had not the record. The report of distribution had not been homologated by the Court below, and until the contestation was over, the Court could not give an order to the Sheriff to pay the money. Motion rejected without costs.

Lacoste & Globensky for Appellants.
Duhamel, Pagnuelo & Rainville for Respondents.