

to ascertain and state what was due from the defendants to the plaintiff. The defendants were ordered to pay costs up to and inclusive of the judgment of the Court of Appeal. Further directions and the question of subsequent costs were reserved until after the Master had made his report. The defendants being desirous of appealing from this judgment to the Supreme Court of Canada, a motion was made to the Registrar to affirm the jurisdiction of the Court under Rule 1 of the Supreme Court Rules, and after partial argument the Registrar referred the motion to the full Court. The motion was argued on the 21st day of January, 1914.

It was admitted that the judgment of the Court of Appeal was not a final judgment within the definition of that expression contained in the S. C. Act, R. S. C. ch. 135, sec. 1: "(c) final judgment means any judgment, rule, order or decision whereby the action, suit, cause, matter or other judicial proceeding is finally determined and concluded." This definition was repealed and a new one substituted by the Act to amend the Supreme Court Act, passed 6th June, 1913, where the following definition was substituted: "(e) save as regards appeals from the Province of Quebec 'final judgment' means any judgment, rule, order or decision which determines, in whole or in part, any substantive right of any of the parties in controversy in any action, suit, cause, matter or other judicial proceeding and, as regards appeals from the Province of Quebec, 'final judgment' means, as heretofore, any judgment, rule, order or decision whereby the action, suit, cause, matter or other judicial proceeding is finally determined and concluded."

It was admitted that, unless the amending statute applied, the case was not appealable, in view of the jurisprudence of the Supreme Court. *Clark v. Goodall*, 44 S. C. R. 284; *Crown Life v. Skinner*, 44 S. C. R. 617; *Hesseltine v. Nelles*, 47 S. C. R. 230.

Section 46 of the Supreme Court Act gives an appeal in the province of Quebec, where the matter in controversy amounts to the sum or value of \$2,000. Previous to 54 & 55 Vict. 25, sec. 3, the Act did not specify any method of determining the amount in controversy when the sum found due by the judgment differed from the amount claimed in the declaration. The amending Act, however, declared that "whenever the right to appeal is dependent upon the amount