

if the ends of justice seem to require it, even though the same is deemed necessary on the ground that the verdict is against the weight of evidence.

EQUITY CASES.

(e) In any action, suit, cause, matter or other judicial proceeding originally instituted in any superior court of equity in any Province of Canada other than the Province of Quebec, and from any judgment in any action, suit, cause, matter or judicial proceeding, in the nature of a suit or proceeding in equity, originally instituted in any superior court in any Province of Canada other than the Province of Quebec.

It was not necessary that an appeal under this provision in the former Act should be from a final judgment. In *Grant v. McLaren*, 23 S. C. R. 310, the appeal was from a judgment confirming the report on a reference to take the accounts of trustees under a will though the matter of removal of the trustees, for which the suit was taken, had not been dealt with.

Where, on a reference under the Vendors and Purchasers Act of Ontario to settle the title under a written agreement for a lease, the Master ruled that evidence might be given to shew what covenants the lease should contain, the Supreme Court held that the above clause did not authorize an appeal from the judgment of the Court of Appeal affirming such ruling. *Canadian Pacific Railway Co. v. City of Toronto*, 30 S. C. R. 337.

In matters under this sub-section an appeal lies directly from the court of original jurisdiction by leave of the Court or a judge. See sec. 42 and notes.

39. Except as hereinafter otherwise provided, an appeal shall lie to the Supreme Court:—

(a) From the judgment upon a special case, unless the parties agree to the contrary, and the Supreme Court shall draw any inference of fact from the facts stated in the special case which the court appealed from should have drawn;

(b) From the judgment upon any motion to set aside an award or upon any motion by way of appeal from an award made in any superior court in any of the Provinces of Canada other than the Province of Quebec;

(c) From the judgment in any case of proceedings for or upon a writ of *habeas corpus*, *certiorari* or prohibition not arising out of a criminal charge;

(d) In any case or proceeding for or upon a writ of *mandamus*; and,