

the principal sum demanded in order to determine the right of appellant to appeal from the judgment rendered in this cause; the Court doth reject the motion of the appellant, for leave to appeal to Her Majesty in Her Privy Council, with costs."

The application for leave to appeal was made, it is true, in that case by the plaintiff, whilst here the appeal is taken by the defendant, but there is no reason that I can see for the contention that the statute does not apply to both cases. *Laberge v. The Equitable* (24 Can. S.C.R. 59), and in *Grand Trunk Railway Company v. Godbout* (3 Q. L. R. 346), the Court of Appeal applied the rule to an appeal by the defendant. See also *Richer v. Voyer* (2 Rev. Lég. 244).

It might perhaps be argued here, as we are not bound by those decisions, that this enactment does not apply to appeals to the Privy Council. But, as said by Dorion, C.J., in that same case of *Grand Trunk Railway Company v. Godbout* (3 Q. L. R. 346), the words of the enactment do not admit of such a contention. They apply to all appeals in the Province, and in the Consolidated Statutes of 1860 they are to be found in the same statute that provides for the appeal to the Privy Council. And that statutory right of appeal to the Privy Council, over which the Province has a legislative control, not only never questioned by the Privy Council itself, but expressly recognized in all the cases from the Province wherein the question came up before their Lordships, (without, of course, interfering with Her Majesty's prerogative rights on the subject) cannot, by any rule of construction that I know of, be excluded from it. That being so, this appeal must be quashed, as the appellant has no right of appeal to the Privy Council.

It is needless to say that we do not lose sight of the ruling of the Privy Council in *Allan v. Pratt* (13 App. Cas. 780), and that line of cases, but, as remarked by Dorion, C.J., in the case of *Stanton v. The Home Insurance Company*, the attention of the Privy Council does not appear to have been drawn to this particular enactment.

As for *Monette v. Lefebvre* (16 Can. S.C.R. 387) in this court, and our decisions in the same sense, they have no application. The Quebec Statute (art. 2311 R.S.Q.), though applying to the appeals to the Privy Council, does not apply to appeals to this court, though now we have sub-sec. 4 of 54-55 V., c. 25, in the same sense.