

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Petition of The  
Attorney-General for the Cape of Good Hope  
for special leave to appeal to His Majesty in  
Council in the Matter of Rex v. Louw, from  
the Supreme Court of the Cape of Good Hope ;  
delivered the 8th June 1904.*

Present :

THE LORD CHANCELLOR.

LORD MACNAGHTEN.

LORD DAVEY.

LORD ROBERTSON.

SIR ARTHUR WILSON.

[*Delivered by The Lord Chancellor.*]

THEIR Lordships are of opinion that this is not a case in which there should be leave to appeal.

Their Lordships are asked, in the exercise of their constitutional function, to advise His Majesty, under the terms of Section 51 of the Charter of Justice for the Colony, to admit an Appeal from a "judgment or determination" of the Supreme Court with a view to the same being reversed, corrected, or varied. There has, however, been no "judgment or determination" in this case which can be, or which indeed is sought to be, either reversed, corrected, or varied. It is admitted by the Petitioner that the Judgment of the Supreme Court is to stand, and the object of the Petition is to have an abstract point of law which did not arise in the case, and never ought to have been reserved at all, determined now by way of Appeal. It would be extremely inconvenient, and wholly unprecedented, to pick out of a trial some obser-

vation of the learned Judge, and to ask to have an Appeal upon it, although the facts at the trial, and the determination of the trial, did not raise the question at all.

Their Lordships will therefore humbly advise His Majesty that the Petition ought to be dismissed.

---

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Petition of The Attorney-General for the Cape of Good Hope for special leave to appeal to His Majesty in Council in the Matter of Rex v. Loww, from the Supreme Court of the Cape of Good Hope; delivered the 8th June 1904.*

Present :

THE LORD CHANCELLOR.

LORD MACNAGHTEN.

LORD DAVEY.

LORD ROBERTSON.

SIR ARTHUR WILSON.

[*Delivered by The Lord Chancellor.*]

THEIR Lordships are of opinion that this is not a case in which there should be leave to appeal.

Their Lordships are asked, in the exercise of their constitutional function, to advise His Majesty, under the terms of Section 51 of the Charter of Justice for the Colony, to admit an Appeal from a "judgment or determination" of the Supreme Court with a view to the same being reversed, corrected, or varied. There has, however, been no "judgment or determination" in this case which can be, or which indeed is sought to be, either reversed, corrected, or varied. It is admitted by the Petitioner that the Judgment of the Supreme Court is to stand, and the object of the Petition is to have an abstract point of law which did not arise in the case, and never ought to have been reserved at all, determined now by way of Appeal. It would be extremely inconvenient, and wholly unprecedented, to pick out of a trial some obser-

vation of the learned Judge, and to ask to have an Appeal upon it, although the facts at the trial, and the determination of the trial, did not raise the question at all.

Their Lordships will therefore humbly advise His Majesty that the Petition ought to be dismissed.

---