

Privy Council Appeal No. 60 of 1919.

The Commercial Cable Company - - - - - *Appellants*

v.

The Attorney-General of Newfoundland - - - - - *Respondent*

FROM

THE SUPREME COURT OF NEWFOUNDLAND.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 4TH MAY, 1920.

Present at the Hearing :

VISCOUNT HALDANE.

LORD MOULTON.

LORD SUMNER.

LORD PARMOOR.

[*Delivered by* LORD SUMNER.]

This is an appeal from the Supreme Court of Newfoundland. There is also an application for special leave to appeal against orders striking out two defences.

The appellants wish to raise a point arising upon an alleged alteration of the text of a Bill after it left the two Chambers and before it received the Governor's assent.

As they never pleaded this point at all, even in the plea struck out, their Lordships think that they cannot now be allowed to raise it.

Their other point is that the Legislative Act relied on by the plaintiff is really no Act, because the body which passed it was either no longer a Legislature at all, or, if it was, had no operative power to legislate at the date in question.

First of all, this is not clearly raised in the plea struck out,

and their Lordships are not prepared to say that, as a matter of the practice of the Court, it was not right to strike it out for ambiguity.

Second, the ground on which it is suggested that there was no legislative power is that the Governor had not performed the duty imposed on him to issue writs for elections to vacant seats.

This contention must depend on the statute imposing that duty. In terms no such consequence is enacted, and, on the construction of the sections as to the constitution of the Legislature, it is plain that this consequence cannot be implied.

This defence also was rightly struck out, and the petition for special leave must be dismissed.

The only question that remains is that decided by the Court below on the merits. Their Lordships have only to say that they entirely concur in the conclusion come to by that Court and in the reasons assigned for that conclusion.

They will humbly advise His Majesty that the appeal and the petition for special leave to appeal should both be dismissed with costs.

In the Privy Council.

THE COMMERCIAL CABLE COMPANY

v.

THE ATTORNEY-GENERAL OF NEWFOUNDLAND.

DELIVERED BY LORD SUMNER.

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