

Such, therefore, being in my opinion the clear law on the points considered, no other ground of appeal need arise for decision, and for these reasons alone the appeal, though I have come to the conclusion with a certain amount of regret, must be allowed with costs.

McDONNELL, Ag. C.J. and BUTLER-LLOYD, J. concurred.

*Appeal allowed.*

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SHORUNKEH-SAWYERR v. BISSETT

Full Court (McDonnell, Ag. C.J., Sawrey-Cookson and Butler-Lloyd, JJ.): December 1st, 1924

[1] Civil Procedure — judgments and orders — order on summons for directions is not judgment within terms of O.XXXIX, r.3: An order made on a summons for directions should be given the date of the day on which it is made, in accordance with O.XLIX, r.11 of the Supreme Court Rules, 1924; it is not a “judgment” within the terms of O.XXXIX, r.3, which does not therefore apply (page 113, lines 16–20).

[2] Civil Procedure — summons for directions — order on summons for directions — to be given date of day on which it is made — Supreme Court Rules, 1924, O.XLIX, r.11 applicable not O.XXXIX, r.3: See [1] above.

The appellant appealed against an order made in the Supreme Court.

Purcell, C.J. made the order in chambers on a summons for directions and it was given the date of the day on which it was pronounced.

The appellant appealed, contending that under O.XXXIX, r.3 of Supreme Court Rules, 1924 it should have been dated as of the day on which the requisite documents were left with the proper officer.

In reply the respondent contended that the order was not a “judgment” within the terms of O.XXXIX, r.3 and had been correctly dated in accordance with O.XLIX, r.11.

The appeal was dismissed.

**Legislation construed:**

Supreme Court Rules, 1924, O.XXXIX, r.3:

“[T]he entry of judgment shall be dated as of the day on which the

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requisite documents are left with the proper officer for the purpose of such entry, and the judgment shall take effect from that date.”

O.XLIX, r.11: “Every order, if and when drawn up, shall be dated the day of the week, month and year on which the same was made, unless the Court shall otherwise direct and shall take effect accordingly.”

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*Shorunkeh-Sawyerr* for the appellants;  
*Kempson* for the respondents.

McDONNELL, Ag. C.J.:

This is an appeal to decide whether an order made in chambers on a summons for directions should bear the date on which it was pronounced by the judge, or should be dated as of the day when the requisite documents are left with the proper officer. The appellants rely on O.XXXIX, r.3.

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It is, I hold, clear from the authorities cited by the respondent that an order such as this must be distinguished from a judgment, and that our O.XLIX, r.11, which corresponds with O.LII, r.13, of the English rules applies, and not our O.XXXIX, r.3, which is equivalent to the English O.XLI, r.4.

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There will be judgment for the respondent with costs.

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SAWREY-COOKSON, J. and BUTLER-LLOYD, J. concurred.

*Appeal dismissed.*

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# RENNER and OTHERS v. LANGLEY

Full Court (McDonnell, Ag. C.J., Levy and Prior, Ag. JJ.):  
December 23rd, 1924

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[1] Civil Procedure — appeals — appeals to Privy Council — no appeal under Appeals to Privy Council Order in Council, 1909, r.2(a) unless appeal involves claim or question respecting property, or other matter in dispute, of £300 value: An appellant cannot appeal as of right under the Appeals to Privy Council Order in Council, 1909, r.2(a) when the matter in dispute is not valued at £300 or more or when the proceedings do not involve any claim or question respecting property of such value, as when an injunction is sought to restrain certain activities; and the fact that the activities in question took place in a building valued in excess of the statutory limit of £300 is irrelevant (page 115, lines 16—22).

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[2] Civil Procedure — appeals — appeals to Privy Council — questions of great general or public importance — should affect whole community or be of

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requisite documents are left with the proper officer for the purpose of such entry, and the judgment shall take effect from that date.”

O.XLIX, r.11: “Every order, if and when drawn up, shall be dated the day of the week, month and year on which the same was made, unless the Court shall otherwise direct and shall take effect accordingly.”

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*Shorunkeh-Sawyer* for the appellants;  
*Kempson* for the respondents.

McDONNELL, Ag. C.J.:

This is an appeal to decide whether an order made in chambers on a summons for directions should bear the date on which it was pronounced by the judge, or should be dated as of the day when the requisite documents are left with the proper officer. The appellants rely on O.XXXIX, r.3.

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It is, I hold, clear from the authorities cited by the respondent that an order such as this must be distinguished from a judgment, and that our O.XLIX, r.11, which corresponds with O.LII, r.13, of the English rules applies, and not our O.XXXIX, r.3, which is equivalent to the English O.XLI, r.4.

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There will be judgment for the respondent with costs.

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SAWREY-COOKSON, J. and BUTLER-LLOYD, J. concurred.

*Appeal dismissed.*

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# RENNER and OTHERS v. LANGLEY

Full Court (McDonnell, Ag. C.J., Levy and Prior, Ag. JJ.):  
December 23rd, 1924

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[1] Civil Procedure — appeals — appeals to Privy Council — no appeal under Appeals to Privy Council Order in Council, 1909, r.2(a) unless appeal involves claim or question respecting property, or other matter in dispute, of £300 value: An appellant cannot appeal as of right under the Appeals to Privy Council Order in Council, 1909, r.2(a) when the matter in dispute is not valued at £300 or more or when the proceedings do not involve any claim or question respecting property of such value, as when an injunction is sought to restrain certain activities; and the fact that the activities in question took place in a building valued in excess of the statutory limit of £300 is irrelevant (page 115, lines 16—22).

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[2] Civil Procedure — appeals — appeals to Privy Council — questions of great general or public importance — should affect whole community or be of

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general public interest — matter of interest only to small minority in community not enough: A question of “great general or public importance” in respect of which the court may grant leave to appeal under the Appeals to Privy Council Order in Council, 1909, r.2(b), is one that affects the whole community or is of general public interest; in the absence of any evidence to the contrary, proceedings which involve only a small minority in the community, such as the worshippers at one of several mosques in a town, will not satisfy the criteria prescribed by this rule (page 115, line 23—page 116, line 9).

[3] Courts — Judicial Committee of Privy Council — appeals — right of appeal — no appeal under Appeals to Privy Council Order in Council, 1909, r.2(a) unless appeal involves claim or question respecting property, or other matter in dispute, of £300 value: See [1] above.

[4] Courts — Judicial Committee of Privy Council — leave to appeal — questions of great general or public importance — should affect whole community or be of general public interest — matter of interest only to small minority in community not enough: See [2] above.

[5] Ecclesiastical Law — conduct of religious services — irregularities — celebrant not priest — grievance of worshippers at one mosque not “matter of great public importance” within Appeals to Privy Council Rules: See [2] above.

The applicant applied for leave to appeal to the Privy Council.

The Full Court granted the respondent an injunction to restrain the applicants from taking part in religious services performed in a mosque by a person other than a priest.

The applicants applied for leave to appeal under the Appeals to Privy Council Order in Council, 1909, r.2 on the grounds that — (i) the value of the mosque in question far exceeded £300 and they were therefore entitled to appeal under r.2(a); and (ii) the question involved was of great general or public importance and the court should therefore exercise its discretion to grant leave to appeal.

The application was dismissed.

#### Cases referred to:

- (1) *Lindo v. Barrett* (1856), 9 Moo. P.C.C. 456; 14 E.R. 371.
- (2) *Speaker of Victoria Legislative Assembly v. Glass* (1871), 7 Moo. P.C.C.N.S. 449; 17 E.R. 170.

#### Legislation construed:

Appeals to Privy Council Order in Council, 1909, r.2:

“Subject to the provisions of these Rules, an appeal shall lie: —

(a) as of right. . . where the matter in dispute on the Appeal amounts to or is of the value of £300 sterling or upwards, or where the Appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right amounting to or of the value of £300 sterling or upwards; and

(b) at the discretion of the Court. . . if in the opinion of the Court, the question involved in the Appeal is one which, by reason of its great general or public importance or otherwise, ought to be submitted to His Majesty in Council for decision.”

*Boston and Beoku-Betts* for the applicants;  
*C.E. Wright* for the respondent.

LEVY, Ag. J.:

This is an application for leave to appeal from a judgment of the Full Court granting an injunction against certain persons who took part and assisted in the performance of religious services at a mosque by a person not a priest.

Mr. Boston endeavoured to profess that he could bring the case under r.2 (a) of the Appeals to Privy Council Order in Council, 1909, by stating that the value of the mosque far exceeded £300. Quite apart from the fact that we have no evidence on this point, it is obvious that the case involves no claim or question respecting the property in the mosque, and that its value is absolutely immaterial.

When asked by the court if he relied on this rule, he said he also relied on r.2 (b). As to this, he has filed no affidavit to show to the court that, in the words of the Order in Council of February 15th, 1909, this is a case which, by reason of its great general or public importance or otherwise, ought to be submitted to His Majesty in Council.

What I take to be a typical case of “great general or public importance” is that of the *Speaker of Victoria Legislative Assembly v. Glass* (2), where special leave to appeal was given on the ground that the question raised was one of public interest involving the constitutional rights of a colonial legislative assembly; or again, that of *Lindo v. Barrett* (1), where leave was given to appeal, though the subject in dispute was under the appealable value of £300, because, as Knight Bruce, L.J. said (9 Moo. P.C.C. at 457; 14 E.R. at 372): “The question involved is one of importance to the *whole of the community* of the Island of Jamaica.” [Emphasis supplied.]

The question in the application before this court concerns the worshippers at one of several mosques which minister to the spiritual needs of the Muslims, who are a small minority in this town.

5 The matter, in one word, is purely parochial. Even if there had been affidavits in support of this motion, which, as I have said, there were not, it is difficult to see how it could be brought within r.2 (b) of the Order in Council. For this reason the application must be dismissed with costs.

10 McDONNELL, Ag. C.J. and PRIOR, Ag. J. concurred.

*Application dismissed.*

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IN THE ESTATE OF LE FEVRE, R. LE FEVRE v. WILLIAMS  
and T.F. LE FEVRE

Supreme Court (Butler-Lloyd, Ag. C.J.): January 9th, 1925

20 [1] Land Law — life interests — right to reside — bequest to widow of right to reside in particular house for life or until remarriage not equivalent to life interest: When a will confers upon a beneficiary the right to reside in a particular house he does not become entitled to the equivalent of a life estate in the property and may not let it while residing elsewhere; as long as he remains in residence, however, he is entitled to unrestricted use of the property and may sub-let part of it and receive the rents (page 118, lines 5—29).

[2] Land Law — occupational rights — right to reside in particular house for life or until remarriage not equivalent to life interest: See [1] above.

30 [3] Succession — wills — construction — bequest to widow of right to reside in particular house for life or until remarriage not equivalent to life interest — beneficiary has unrestricted use of premises and may sub-let part, only while in residence: See [1] above.

35 The plaintiff, a beneficiary under her deceased husband's will, took out an originating summons against the defendants as executors and trustees of the will, to determine the effect of a certain clause in it.

40 The clause in question stated that the trustees should permit the plaintiff to reside in the deceased's house during her life or for as long as she remained his widow.