

LOUIS LABERGE (PLAINTIFF).....APPELLANT;  
 AND  
 THE EQUITABLE LIFE AS-  
 SURANCE SOCIETY OF THE }  
 UNITED STATES (DEFENDANTS). } RESPONDENTS.

1895

\*Feb. 21,

\*May 6.

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR  
 LOWER CANADA (APPEAL SIDE).

*Contract—Insurance Co.—Appointment of medical examiner—Breach of  
 contract—Authority of agent.*

The medical staff of the Equitable Life Assurance Society at Montreal consists of a medical referee, a chief medical examiner and two or more alternate medical examiners. In 1888 L. was appointed an alternate examiner in pursuance of a suggestion to the manager by local agents that it was advisable to have a French Canadian on the staff. By his commission L. was entitled to the privilege of such examinations as should be assigned to him by, or required during the absence, disability or unavailability of, the chief examiner. After L. had served for four years it was found that his methods in holding examinations were not acceptable to applicants, and he was requested to resign, which he refused to do, and another French-Canadian was appointed as an additional alternate examiner, and most of the applicants thereafter went to the latter. L. then brought an action against the company for damages by loss of the business and injury to his professional reputation by refusal to employ him, claiming that on his appointment the general manager had promised him all the examinations of French-Canadian applicants for insurance. He also alleged that he had been induced to insure his own life with the company on the understanding that the examination fees would be more than sufficient to pay the premiums, and he asked for repayment of amounts paid by him for such insurance.

*Held*, affirming the decision of the Court of Queen's Bench, that by the contract made with L. the company were only to send him such cases as they saw fit, and could dismiss him or appoint other examiners at their pleasure; that the manager had no authority

\*PRESENT :—Sir Henry Strong C.J., and Fournier, Gwynne, Sedgewick and King JJ.

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to contract with L. for any employment other than that specified in his commission ; and that he had no right of action for repayment of his premiums, it being no condition of his employment that he should insure his life, and there being no connection between the contract for insurance and that for employment.

APPEAL from a decision of the Court of Queen's Bench (appeal side) (1), reversing the judgment of the Superior Court (2) in favour of the plaintiff.

A motion to quash this appeal for want of jurisdiction was refused by the court (3).

The material facts of the case on the merits are sufficiently set out in the above head-note and fully stated in the report of the case in the Court of Queen's Bench and the Superior Court.

*Greenshields* Q.C. for the appellant.

*Macmaster* Q.C. for the respondent.

THE CHIEF JUSTICE.—The facts are fully stated in the notes of Mr. Justice Hall. As regards the appellant's claim to recover the premiums he has paid on the policy he effected with the society on his own life, a claim which has been repelled by both the Superior Court and the Court of Queen's Bench, he clearly has no right of action. That was a contract wholly collateral to his appointment as medical examiner ; it was no condition of his employment as such that he should insure his life, and there is no connection between the two contracts.

Mr. Stearns had no authority to enter into any additional or other verbal contract entitling the appellant to employment other than that provided for by the commission from the society. He is therefore restricted to the terms of the contract embodied in that document, and it is out of the question to say that there

(1) Q. R. 3 Q. B. 513.

(2) Q. R. 3 S. C. 334.

(3) 24 Can. S. C. R. 59.

has been any breach of them. It was consistent with the commission that the society should refer to him just such cases as they thought fit and no others, and they had power to dismiss him at their will and pleasure whenever they thought fit to do so.

The by-laws and rules of the society are for the governance of their own officers only and do not enter into the contract between the society and the appellant, or in any way control it.

I need not discuss the case at any greater length, as Mr. Justice Hall's judgment is very full and clear, and I entirely concur both in his reasons and conclusions.

The appeal must be dismissed with costs.

FOURNIER J.—I am of the same opinion.

GWYNNE J.—There is no foundation whatever for this appeal. There was no contract of the nature contended for by the learned counsel for the appellant involved in the appellant's appointment as a medical examiner for the respondents. The appeal therefore must be dismissed with costs.

SEDGEWICK and KING JJ. concurred.

*Appeal dismissed with costs.*

Solicitors for the appellant: *Greenshields & Greenshields.*

Solicitors for respondents: *Macmaster & McLennan.*

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