

THE EUREKA WOOLLEN MILLS }  
 COMPANY, LIMITED (Defendants)... } APPELLANTS;

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 \*Oct. 23.  
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AND

SAMUEL MOSS *et al* (Plaintiffs)..... RESPONDENTS.

ON APPEAL FROM THE SUPREME COURT OF NOVA SCOTIA.

*Appeal - New trial ordered by court below—Verdict against weight of evidence.*

The court will not hear an appeal where the court below, in the exercise of its discretion, has ordered a new trial on the ground that the verdict is against the weight of evidence.

**THIS** was an appeal from a judgment of the Supreme Court of Nova Scotia, ordering a new trial on the ground that the verdict for the appellants (defendants below) was against the weight of evidence.

By the judgments in the court below, published in the printed case, it appeared that the judges, in order—

\* PRESENT—Sir W. J. Ritchie, C.J., and Fournier, Henry, Taschereau and Gwynne, JJ.

(1) Bédarride, *Dol et fraude, révocation*, p. 104; *Table Gén. v. No. 1764*; *Demolombe, 2 des Contrats*, Nos. 198 in 204 and No. 235; *et Rau*, p. 92.  
 4 *Proudhon, usufruct*, No. 2412; *Duranton*, vol. 10, No. 582; *Marcadé*, vol. 4, p. 406; *Capmas, de la*

(2) Vol. 16, Nos. 464, et seq. and 497 et seq.

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ing a new trial, considered that the evidence greatly preponderated in favor of the respondents (plaintiffs below) and that the jury had given a sympathetic verdict, the respondents being a foreign firm doing business at Montreal.

*A. F. McIntyre*, for the appellants, stated the facts of the case and the nature of the appeal.

*Dunlop* on behalf of the respondents was not called on

RITCHIE, C. J. :—

We must not encourage appeals to this court in such cases, and we wish it understood, that where a court below has ordered a new trial on the ground that the verdict is against the weight of evidence, this court will not interfere.

This appeal must be dismissed.

*Appeal dismissed with costs.*

Solicitor for appellants: *D. C. Fraser.*

Solicitor for respondents: *W.B. McSweeney.*