Supreme Court of Canada

Scott *v.* The Bank of New Brunswick (1892) 21 SCR 30

Date: 1892-05-16

Scott *v.* The Bank of New Brunswick

1892: May 16.

Present:—Sir W. J. Ritchie C.J., and Strong, Taschereau, Gwynne and Patterson JJ.

Appeal—Order for new trial—Interference with.

Appeal from a decision of the Supreme Court of New Brunswick setting aside a verdict for the plaintiff and ordering a new trial.

The action was brought to recover from the Bank of New Brunswick the amount of a special deposit by the plaintiff, and the defence was that such amount had been already paid to an agent of the plaintiff who had endorsed plaintiffs name upon and given up the deposit receipt. As against this defence it was contended that no such authority was given to the agent and that plaintiff's name had been forged on the receipt. The jury found the facts in favour of this contention, and plaintiff obtained a verdict which was set aside by

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the full court and a new trial ordered. Plaintiff sought to appeal.

The court held that a new trial having been ordered to try certain questions of fact in the case, such order should not be interfered with by an appellate court.

Palmer Q.C. for appellant.

Barker Q.C. for respondent.

Appeal dismissed with costs.