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* Dec. 5.
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1939
* Feb. 7.
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FRED. CHRISTIE (PLAINTIFF).....APPELLANT;
AND
THE YORK CORPORATION (DEFEND- }
ANT) } RESPONDENT.

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
PROVINCE OF QUEBEC

Appeal—Jurisdiction—Action in damages by negro for refusal to sell beer by a tavern-keeper—Judgment by trial judge for \$25 reversed by appellate court—Motion for leave to appeal—Matter in controversy—Future rights—Matter of general importance—Section 41 of the Supreme Court Act.

The appellant, a negro, brought action against the respondent to recover the sum of \$200 as damages suffered as a result of the refusal by the respondent, a tavern-keeper, to serve a glass of beer. The action was maintained for \$25, the trial judge holding that the respondent's premises came within the definition of a "restaurant" and that owners of hotels and restaurants have no right to discriminate between their guests. This judgment was reversed by the appellate court (Q.R. 65 K.B. 104) which held that a tavern was not subject to the laws governing hotels and restaurants and that, as a general rule, a merchant or trader was free to carry on his business in the manner that he conceives to be the best for that business. The appellant moved before the court for special leave to appeal.

Held that special leave to appeal should be granted. The matter in controversy in the appeal will involve "matters by which rights in future of the parties may be affected" within the meaning of section 41 of the *Supreme Court Act*. Further, the matter in controversy is of such general importance that leave to appeal ought to be granted.

MOTION for leave to appeal to this Court from the judgment of the Court of King's Bench, appeal side, province of Quebec (1), reversing the judgment of the

* PRESENT:—Duff C.J. and Rinfret, Crocket, Kerwin and Hudson JJ.

(1) (1938) Q.R. 65 K.B. 104.

trial judge, P. Demers J. and dismissing the appellant's action.

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CHRISTIE
v.
THE YORK
CORPORATION.
Duff C.J.

The material facts of the case are as follows: About half past eight in the evening of July 11th, 1936, the appellant, who is a negro, accompanied by two friends one of whom was also a negro, entered the tavern operated by the respondent and seated themselves at a table to which they summoned a waiter. The appellant placed fifty cents on the table and ordered three steins of beer, but was informed by the waiter that he was unable to serve them. The appellant asked the reason for such refusal and was informed by the assistant manager of the respondent company that, according to the regulations of the establishment, it was forbidden to serve coloured people. The respondent and his friends left the place. By his action, the appellant claimed \$200 as damages for pain and suffering and humiliation caused to him in the presence of a number of people present in the tavern.

Lovell C. Carroll for motion.

Hazen Hansard contra.

The judgment of the court was delivered by

THE CHIEF JUSTICE.—We think that the matter in controversy in this appeal will involve “matters by which rights in future of the parties may be affected” within the meaning of section 41 of the *Supreme Court Act*. We also think the matter in controversy is of such general importance that leave to appeal ought to be granted.

Special leave to appeal is, therefore, granted; the costs of the application will be costs in the appeal.

Leave to appeal granted.
