

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Fulton v. Norton, from the Supreme Court of Canada; delivered the 9th July 1908.*

---

Present at the Hearing :

THE LORD CHANCELLOR.

LORD ROBERTSON.

LORD ATKINSON.

SIR ARTHUR WILSON.

SIR HENRI ELZÉAR TASCHEREAU.

[*Delivered by the Lord Chancellor.*]

Their Lordships think that a cause of action arose in this case upon the definite refusal of the Defendant (the Appellant), in the letters of the 2nd May 1906 and the 4th May 1906, to submit the Respondent's Petition of Right to the Lieutenant-Governor. The Statute says that this is to be done, and says nothing as to the advice with which the Petition is to be accompanied, if any advice is tendered. The cause of action involves some damages, if the jury think fit to award them,—not those supposed to ensue from a refusal of the licence asked for, (which are not relevant at all in this action), but such as a jury might think reasonably followed from the refusal to submit the Petition, or—if the facts of the case admitted of the point being raised—from the conduct of the Defendant. In the present case there appears no such ground as that last referred to. The Judge will, no

doubt, advise very great moderation in estimating the damages in this case. However unimportant the omission of the Defendant to discharge his duty may seem, their Lordships do not think that the Court could take upon itself the function of the jury. The damages are not necessarily nominal.

Their Lordships will accordingly humbly advise His Majesty to dismiss this Appeal. The Appellant will pay the costs of it.

---