
REPORTS AND NOTES OF CASES.

England.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

Chancellor Haldane, Lord's Atkinson
and Moulton.]

[110 L.T. Rep. 484.

ATTORNEY-GENERAL FOR BRITISH COLUMBIA v. ATTORNEY-GENERAL FOR DOMINION OF CANADA; ATTORNEY-GENERAL FOR PROVINCE OF ONTARIO AND OTHERS, *Intervenors*.

Provincial Legislature—Authority to grant fishing rights—Tidal and non-tidal waters—Railway belt—British North America Act, 1867 (30 & 31 Vict. c. 3), ss. 91, 92, 109.

Appeal by special leave from an opinion given by the Supreme Court of Canada on the 18th February, 1913, in a reference by the Governor-General in Council, dated the 29th June, 1910, under s. 60 of the Supreme Court Act (R.S.C. 1906, c. 139).

Under the "terms of union" upon which British Columbia was admitted into the Union of Provinces created by the British North America Act, 1867, the Legislature of that province granted to the Dominion Government what is known as the railway belt, consisting of a belt of public lands along the entire length of a certain line of railway which was to be constructed. By s. 81 of the Act the Parliament of Canada has exclusive legislative authority over "sea coast and inland fisheries," and under s. 92 of the Provincial Legislature has exclusive legislative power over "property and civil rights in the provinces."

Held, that it was not competent to the Legislature of British Columbia to authorize the Government of that province to grant the exclusive right to fish in either the tidal or navigable non-tidal waters within the railway belt as the grant of that land to the Dominion Government had passed the water rights incidental to such lands.

Held, also, that it was not competent to the Legislature of British Columbia to authorize the Government of that province to grant the exclusive right of fishing in the open sea within