

formity of law upon proper topics, for simplicity of procedure, for better legal education, for international arbitration; and at the same time let us strive to increase the spirit of careful conservatism which is the best preservative of good, to cry a continual alarm against trifling with the deep-laid foundations of our jurisprudence, and to preserve for our laws that sentiment of reverence and respect which hitherto has so distinguished the Anglo-Saxon race.

NOTES OF CASES, ONTARIO.

ROBERTSON, J.] [Oct. 15.
QUEEN'S COLLEGE v.
LAFFERTY.

Practice—removing executors.

Motion by plaintiffs (by way of originating notice) for an order removing executors dismissed with costs because an action is necessary. *Re Davis*, 17 P. R., 187 followed.

H. M. Mowat for plaintiffs.
Masten for defendants.

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DARTNELL, Co. J.] [Aug. 5.
ONTARIO.]
GRAND TRUNK RAILWAY v.
PORT PERRY.

*Railway Assessment—Tanks and
Platforms—Sub-tenant.*

The assessment of the lands and other property of Railway Companies is governed by Section 29 of the Consolidated Assessment Act of 1892. The first legislation relating to the assessment of railway lands is contained in 16 Vic. Cap. 182, Sec. 21. The same clause is repeated in Section 30, Cap. 55 C. S. U. C. 1859. Section 29 of the present Act was passed in 32 Vic. Cap., 26., being Section 33 of that Act. It was simply a consolidation and re-arrangement of the law as it previously stood, and added a clause (sub-sec. 3) directing that the vacant lands held by the Company should be as-

sessed as if held for farm or garden purposes. This Section has had judicial interpretation. The land occupied by the roadway has been held to mean land apart from, and independent of, the superstructure of the Railway. *G. W. Ry. vs. Rouse*, 15 U. C. Q. B. 168. *Township of London vs. G. W. Ry.*, 17 U. C. Q. B. 262. *Central Vermont Ry. vs. St. John*, 14 S. C. R. 288; affirmed on appeal to the Privy Council, 14 App. Cas. 590.

A wharf used by a Railway is not assessable. *Midland Railway vs. Village of Meaford*, 4 C. L. T. page 501.

Lands used as railway will include not merely the line of railway, but also all land and works thereon, physically necessary for the use of the railway as a railway.

The platforms at a Railway Station, the roof covering the Railway, and the sidings are all lands used only as a Railway. *London and North Western Railway Co. vs. Llandudno Improvement Commissioners*, [1897] 1 Q. B. 287; 75 L. T. R. 659. *South Wales Ry. Co. vs. Swansea Local Board*, E. B. 189. *North Eastern Ry. Co. v. Scarboro Local Board*, 33 J. P. 244.

Under these authorities it would appear that the water tanks and platforms, &c., are not assessable apart from the land, and come within the same category as the rails, ties, fences, etc. [In the case under consideration the Assessor values the water tanks and platforms, and includes them in his assessment.]

The "average value of the land in the locality" has also been judicially passed upon, and has been held to mean that it is the assessed value of the lands immediately adjoining the railway that is to be taken into consideration.

C. P. R. vs. Ottawa, 18 C. L. J. 288.

C. P. R. vs. Harriston, 21 C. L. J. 333. *Midland Ry. vs. North Gwilibury*, 19 C. L. J. 347. *Midland Ry. vs. Uxbridge*, 19 C. L. J. 330.