

ter. The damages were accordingly assessed by the Master. The defendant desired to appeal from the assessment, and the question was whether he should appeal to a Divisional Court or to the Court of Appeal. The Court of Appeal (Williams, Farwell and Kennedy, L.JJ.) held that the appeal lay to the Court of Appeal, presumably on the ground that it was, in effect, an appeal, not from the Master, but from Phillimore, J.

BUILDING CONTRACT—ARBITRATION CLAUSE—REFERENCE TO ENGINEER—DISQUALIFICATION—DISPUTE INVOLVING EXAMINATION OF ENGINEER—STAYING PROCEEDINGS—ARBITRATION ACT, 1889 (52-53 VICT. C. 49), s. 4—(9 EDW. VII. C. 35, s. 8, ONT.)

*Bristol Corporation v. Aird* (1913) A.C. 241. This was also an action to recover a balance due on a building contract which provided for a reference of disputes to the engineer employed by the owner. Upon the settlement of the final account a dispute arose of a substantial character between the contractor and the engineer, involving a probable conflict of evidence between them. The defendants applied under the Arbitration Act, s. 4 (see 9 Edw. VII. c. 35, s. 8, Ont.) to stay the action, but the Court of Appeal affirming, Scrutton, J., held that in the circumstances the action should not be stayed, and the House of Lords (Lords Atkinson, Shaw, Moulton, and Parker) affirmed the decision, their Lordships being of the opinion that the engineer had become a necessary witness, and therefore ought not also to be a judge of the matter in dispute; but their Lordships held that such a dispute as to one matter would not necessarily disqualify the arbitrator as to all other matters, and Lord Parker states that according to the practice of the Chancery Division an action may be stayed as to some matters in dispute and allowed to proceed as to others, though all the matters are subject to an agreement for reference.

POWERS OF PROVINCIAL LEGISLATURE—ALBERTA ACT, 1 GEO. V. C. 9, HELD TO BE ULTRA VIRES—CIVIL RIGHTS EXISTING AND ENFORCEABLE OUTSIDE PROVINCE.

*Royal Bank of Canada v. The King* (1913) A.C. 283. This is an important decision on the question of the jurisdiction of Provincial Legislatures. The appellant bank received on deposit from England at its branch in New York the proceeds of a mort-