

"It may be that a serious question could be raised as to whether or not, in a case, in which the Superior Court of this province has full authority to adjudicate, the right of appeal from its judgment which our Code of Procedure gives to a party can be abridged or denied by Federal Statute when the matter in issue is such a purely civil one as is a claim for indemnity for the taking of land.

"It may, perhaps, be considered that inasmuch as subsection 4, section 209 left intact the Provincial Law and practice as to setting aside awards, the Railway Act did not take away from Provincial control anything from which the Code of Procedure could have applied had the Railway Act been enacted.

"Such a question of power of legislation, however, has not been raised in this case.

"I consider that the present is a case "otherwise provided by statute" within the meaning of that expression as employed in Art. 43 C. P. It is not the legal proper effect of Arts. 42 and 43 C. P. to follow upon the section 209 of the Railway Act, so as to produce the result that the question of the amount of compensation can be tried out in three jurisdictions, first before arbitrators, second in the Superior Court and third in this court.

"Counsel for the company have reported to the "Interpretation Act" in order to ascertain what the words "Superior Court" mean as employed in section 209.

"This seems to me to have been unnecessary or only necessary in a qualified and secondary way, because, in clause 7 of sec. 2 of this Railway Act itself, it is made clear that the word "Court" for the purposes of that Act means "a Superior Court of the province," and by clause 13 of the same section the word "judge" means a judge of a Superior Court.

"Now, the words "Superior Court" mean, according to