

**EQUITABLE RIGHT—UNDERGROUND TRESPASS—FRAUD—STATUTE OF LIMITATIONS—CHAMPERTY.**

*Bulli Coal Co. v. Osborne* (1899) A.C. 351, is a decision of the Judicial Committee of the Privy Council (Lords Macnaghten, Morris and James) on appeal from the Supreme Court of New South Wales. The appeal arose in a winding-up matter. The Bulli Coal Co. had been ordered to be wound up, and Osborne claimed to prove a claim for damages under the following circumstances. Osborne had in 1893 leased to the Bellambi Coal Co. a tract of fifty acres of what was then supposed to be virgin coal-bearing land. After the execution of the lease, it was discovered that the Bulli Coal Co. had been, for a series of years prior to the lease, extending from 1878 to 1880, fraudulently and secretly trespassing on the property and abstracting coal therefrom. It was then agreed between Osborne and the Bellambi Company that Osborne should take proceedings against the Bulli Co. to recover damages for the trespasses thus committed by them, that he should employ for that purpose the solicitor of the Bellambi Co., and that that company should be entitled to 92½ per cent. of the amount secured from the Bulli Co., and should indemnify Osborne against all costs of the proceedings. The claim of Osborne was resisted on behalf of the Bulli Company on the ground that the agreement between Osborne and the Bellambi Co. was champertous, but this was subsequently abandoned, and in the opinion of the Judicial Committee was untenable; it was also contended that Osborne's claim for damages was barred by the Statute of Limitations, and this was the point mainly relied on by the appellants. Their Lordships' conclusion was that in the present case the trespass was proved to have been knowingly committed, and that fact constituted a fraud which prevented the running of the statute until Osborne discovered the fraud, and, therefore, that the claim was not barred.

**B.N.A. ACT 1867, ss. 91, 92—RAILWAY—LEGISLATIVE POWERS AS REGARDS RAILWAYS—MUNICIPAL LEGISLATION AFFECTING DOMINION RAILWAY.**

In *Canadian Pacific Railway Co. v. Notre Dame* (1899) A.C. 367, the Judicial Committee of the Privy Council (The Lord Chancellor and Lords Watson, Hobhouse, Macnaghten, Morris, Shand and Davey) were called upon again to determine what are the legislative powers of the Dominion and Provincial Legislatures regarding Dominion Railways under ss. 91, 92, of the B.N.A. Act,