

the former Province of Canada. In dealing with the Common school fund established under 12 Vict., c. 20 they directed the principal of the fund to be retained by the Dominion, and the income therefrom paid to the provinces.

Held, that even if there was no ultimate "division and adjustment," such as the statute required, yet the ascertainment of the amount was a necessary preliminary to such "division and adjustment," and therefore intra vires of the arbitrators.

Held, further, that there was a division of the beneficial interest in the fund, and a fair adjustment of the rights of the provinces in it, which was a proper exercise of the authority of the arbitrators under the statute.

By 12 Vict., c. 20, s. 3 (Can.), one million acres of the public lands of the Province of Canada were to be set apart to be sold, and the proceeds applied to the creation of the Common school fund provided for in section 1. The lands so set apart were all in the present province of Ontario.

Held, that the trust in these lands created by the Act for the common schools of Canada did not cease to exist at confederation, so that the unsold lands and proceeds of sales should revert to Ontario, but such trust continued in favour of the Common schools of the new provinces of Ontario and Quebec.

In the agreement of reference to the arbitrators appointed under Acts passed in 1891, to adjust the said accounts, questions respecting the Upper Canada improvement fund were excluded, but the arbitrators had to determine and award upon the accounts as rendered by the Dominion to the two provinces, up to January, 1889.

Held, that the arbitrators could pass upon the right of Ontario to deduct a proportion of the school lands, as the amount of which was one of the items in the accounts rendered.

Province of Ontario.

COURT OF APPEAL.

From Rose, J.]

HANNUM v. MCRAE.

[Oct. 4.]

Contempt of court—Witness—Local manager of bank—Production of bank books—Disclosure of bank accounts—Inconvenience—Privilege—Motion to commit—Service of papers.

The local manager of a chartered bank was subpoenaed to attend as a witness before a Master upon a reference in an action to which neither he nor the bank was a party, and there to produce the books of the bank, and give evidence. The testimony sought was relevant to the matters in question in the action, and no party thereto objected to its being adduced, nor to the means by which it was sought to be obtained. Upon appeal from an order, made upon a motion to commit the witness for his contempt in refusing to produce the books or give evidence of their contents, requiring him to attend at his own expense and do so:

Held, that inconvenience to the bank was no ground for refusing to pro-