

appealing should have passed. The case referred to was decided in 1888 against the Crown, and in 1891 another case was decided by the Privy Council which determined that no duty at all was payable. An application was made in 1897 by the appellant for a mandamus to the respondent to state a case, setting forth the circumstances under which the duty had been paid, and raising the question whether the same had been properly paid or not. The Supreme Court of New South Wales refused the motion on the ground of delay, and the Judicial Committee of the Privy Council upheld the decision.

**APPEAL—INTERLOCUTORY INJUNCTION TO RESTRAIN TRESPASS.**

*Croudace v. Zobel* (1899) A.C. 258, was an appeal by a defendant against an interim injunction, restraining him from trespassing on certain mining lands until the trial of the action. The respondent did not appear; but, notwithstanding the appeal was undefended, the Judicial Committee (Lords Hobhouse, Macnaghten and Morris, and Sir R. Couch) refused to interfere with the order appealed from, and intimated that such appeals will not be encouraged.

**CANADA RAILWAY ACT** (51 VICT., c. 29), s. 262, s.ss. 3, 4—RAILWAY COMMITTEE—PACKING OF FROGS.

In *Grand Trunk Ry. Co. v. Washington* (1899) A.C. 275, the question at issue was the proper construction of the Dominion Railway Act, 51 Vict., c. 29, s. 262, s.ss. 3, 4, which imposes the duty on railways of packing frogs and other spaces. The action was brought in the High Court of Justice for Ontario, and was based on the alleged negligence of the railway company in omitting to pack a frog in which the plaintiff's foot had been caught. The plaintiff succeeded at the trial; but the Court of Appeal set aside the judgment in his favour on the ground that the Railway Committee, under statutory authority, had exonerated the company from packing the frogs from December to April, during which time the accident to the plaintiff occurred. The Supreme Court reversed the Court of Appeal, on the ground that the Railway Committee had no power to make the dispensing order, and that its authority to dispense with packing only applied to the spaces referred to in sub-s. 4 above referred to, and that under sub-s. 3 frogs must be packed throughout the year, and there is no power to exonerate the company from this duty. The Judicial Committee