

the claim set up by the defendants and ordered it to be struck out. Their Lordships holding that the Exchequer Court has no common law jurisdiction, and its statutory jurisdiction under Imperial Statute, 53-54 Vict. c. 27, and Dominion Act, 54-55 Vict. c. 29, is no wider than that of the Admiralty Division of the English High Court, and the defendants' remedy was therefore by cross-action in a court having jurisdiction to entertain the claim.

CONSTRUCTION OF WILL.—RES JUDICATA.

*Badar Bee v. Noordin* (1909) A.C. 615 was an appeal from the Supreme Court of the Straits Settlements. The appellant had petitioned for a declaration that the devise and gifts contained in the 6th clause of the will in question were void and that the lands comprised therein and the income thereof belonged to the testator's next of kin. It appeared that in 1872 the court in a suit relating to the same will had declared the said gifts to be void and that they "fell into the undevise residue of the testator's estate," and that thereafter the gifts which were of annual sums were paid to the testator's next of kin with the assent of all parties interested, and that in 1891 in another suit relating to the same clause the court had declared that the defendants, who included the trustees of the will, were estopped from contending that the said annual sums were not wholly undisposed of. Notwithstanding this state of facts the Colonial Court had held that the prior judgments of the court did not relate to the corpus of the property comprised in clause 6, but only to the income, and that the corpus, subject to the payment of certain annual sums, fell into the residue disposed of. The Judicial Committee of the Privy Council (Lords Macnaghten, Atkinson and Collins, and Sir A. Scoble), however, reversed this decision, and held that the prior decision had dealt with the matter and applied both to the income and corpus, and therefore that the matter was res judicata and could not be reopened.

CANADA RAILWAY ACT, 1903, s. 168—SUPREME AND EXCHEQUER COURTS ACT (R.S.C. 1886, c. 135), s. 26—APPEAL TO HIGH COURT—FURTHER APPEAL TO SUPREME COURT INCOMPETENT.

In *James Bay Railway v. Armstrong* (1909) A.C. 624 the Judicial Committee of the Privy Council (Lords Macnaghten, Dunedin and Collins and Sir A. Wilson) have determined that