

REPORTS AND NOTES OF CASES

Dominion of Canada.

SUPREME COURT.

Que.] GRAND TRUNK R. W. CO. v. COUPAL. [June 14.
Railways—Eminent domain—Expropriation of lands—Arbitration—Evidence
—Findings of fact—Duty of appellate court—51 Vict., c. 29 (L).

On an arbitration in a matter of the expropriation of land under the provisions of The Railway Act, the majority of the arbitrators appeared to have made their computation of the amount of the indemnity awarded to the owner of the land by taking an average of the different estimates made on behalf of both parties according to the evidence before them.

Held, reversing the decision of the Court of Queen's Bench, and restoring the judgment of the Superior Court (TASCHEREAU and GIROUARD, JJ., dissenting), that the award was properly set aside on the appeal to the Superior Court, as the arbitrators appeared to have proceeded upon a wrong principle in the estimation of the indemnity thereby awarded.

Lafleur, for appellant. *Lafontaine*, for respondent.

SMITH v. ST. JOHN CITY RY. CO. CONS. ELECTRIC CO. v. ATLANTIC TRUST
 N.B.] CO. CONS. ELECTRIC CO. v. PRATT. [June 14.
Appeal—Costs—Consolidation of suits—Discretion of Court appealed from.

On the hearing of a suit in Equity before PALMER, J., late Judge in Equity for New Brunswick, he directed said suit and two others involving similar issues to be consolidated. No order for consolidation was taken out, and separate interlocutory decrees were afterwards issued in the three suits. The hearing subsequently proceeded before another judge, who held that the suits had been consolidated, and directed the costs to be taxed on that basis. The Supreme Court of New Brunswick having affirmed this order, an appeal was taken to this Court.

Held, that it is only when some fundamental principle of justice has been ignored, or some other gross error appears, that the Supreme Court will interfere with the discretion of provincial courts in awarding or withholding costs, and this was not a case of the kind. Appeal dismissed with costs.

Pugsley, Q.C., for appellants. *W. Cassels*, Q.C., *Stockton*, Q.C., and *Tilley*, for the several respondents.

PROVINCES OF ONTARIO AND QUEBEC v. DOMINION OF CANADA.
 IN RE COMMON SCHOOL FUND AND LANDS.

Constitutional law—B.N.A. Act, s. 142—Award of 1870, validity of—Upper Canada Improvement Fund—School Fund—B.N.A. Act, s. 109—Trust created by—Effect of Confederation on.

The arbitrators appointed in 1870, under s. 142 of the B.N.A. Act, were authorized to "divide" and "adjust" the accounts in dispute between the Dominion of Canada and the provinces of Ontario and Quebec, representing