

Quebec.]

ROYAL ELECTRIC CO. v. LEONARD & CO.

Action en garantie—Contract—Sub-contract—Legal connection (connexite).

The appellants, who had a contract with the city of Three Rivers to supply and set up a complete electric plant, sublet to the respondents the part of their engagement which related to the steam engine and boilers. The original contract with the city of Three Rivers embraced conditions of which the defendants had no knowledge, and included the supply of other totally different plant from that which they subsequently undertook to supply to the appellants. The appellants, upon completion of the works, having sued the city of Three Rivers for the agreed contract price, the city pleaded that the work was not completed, and set up defects in the steam engine and boilers, and the appellants thereupon brought an action *en garantie simple* against the respondents.

Held, affirming the judgments of the courts below, that there was no legal connection (*connexite*) existing between the contract of the defendant and that of the plaintiffs with the city of Three Rivers, upon which the principal demand was based, and therefore the action *en garantie simple* was properly dismissed.

Appeal dismissed with costs.

Beique, Q.C., for the appellants.

A. R. Oughtred for the respondents.

Quebec.]

ATLANTIC & NORTHWEST R.W. CO. v. JUDAH.

Railway expropriation—Award—Additional interest—Confirmation of title—Diligence—The Railway Act, ss. 162, 170, 172.

On a petition to the Superior Court, praying that a railway company be ordered to pay into the hands of the prothonotary of the Superior Court a sum equivalent to six per cent on the amount of an award previously deposited into court under section 170 of the Railway Act, and praying further, that the company should be enjoined and ordered to proceed to confirmation of title in order to proceed to the distribution of the money, the company pleaded that the court had no power to grant such an order, and that the delays in proceeding to confirmation of title had been caused by the petitioner, who had unsuccessfully appealed to the higher courts for an increased amount.

Held, reversing the judgment of the courts below, that, by the term of section 172 of the Railway Act, it is only by the judgment of confirmation that the question of additional interest can be adjudicated upon.

Held further, that, assuming the court had jurisdiction, until a final determination of the controversy as to the amount to be distributed, the railway company could not be said to be guilty of negligence in not obtaining a judgment in confirmation of title.

The Railway Act, section 172, FOURNIER, J., dissenting.

Appeal allowed with costs.

H. Abbott, Q.C., for the appellant.

Branchaud, Q.C., for the respondent.