

The provinces submitted to the arbitrators for determination the amount of the principal of the Common School Fund to ascertain which they should consider not only the sum held by the Government of Canada but also "the amount for which Ontario is liable." In 1896 by award No. 2 the arbitrators determined that moneys remitted to purchasers of school lands unless made in fair and prudent administration, and uncollected purchase money of patented lands, unless good cause were shewn for non-collection should be deemed moneys received by Ontario, and in 1899 the amount of liability under these heads was fixed by award No. 4. In 1902 the Privy Council held that the arbitrators had no jurisdiction to entertain a claim by Quebec to have Ontario declared liable for the purchase money of school lands yet unpatented allowed to remain uncollected for many years. In making their final award in 1907, the arbitrators refused an application by Quebec for inclusion therein of the amounts found due from Ontario for remissions and non-collections and held that they had exceeded their jurisdiction in determining such liability. On appeal from this determination embodied in the final award:—

Held, FITZPATRICK, C.J., and DUFF, J., expressing no opinion, that the arbitrators had no jurisdiction to determine the liability of Ontario for moneys remitted or not collected. *Attorney-General of Ontario v. Attorney-General of Quebec* (1908) A.C. 39 followed.

Held, also, FITZPATRICK, C.J., and DUFF, J., dissenting, that awards Nos. 2 and 4 in so far as they determined this liability were absolutely null, and, therefore, not binding on Ontario.

Appeal dismissed.

Lafleur, K.C., and *Aimé Geoffrion*, K.C., for appellant. *Sir Amelius Irving*, K.C., and *Shepley*, K.C., for respondent. *Hogg*, K.C., for Dominion.

Que.]

[June 10.

COMPAGNIE D'AQUEDUC DE LE JEUNE-LORETTE v. VERRETT.

Appeal — Matter in controversy — Jurisdiction — Demolition of waterworks — Municipal franchise.

In an action for a declaration of the exclusive right to construct and operate waterworks, for an injunction against the construction and operation of such works by the defendants, an order for the demolition of other works constructed by the defendants, and \$86 damages, an appeal will not lie to the Supreme