

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ont.]

GIBB v. McMAHON.

[April 6.

Trust—Co-trustee—Joint action—Delegation of trust.

A trustee in Toronto wrote to a co-trustee in St. Mary's stating that an offer had been made to purchase a portion of the trust estate for \$12,000, and giving reasons why it should be accepted. The co-trustee replied concurring in said reasons and consenting to the proposed sale. The Toronto trustee afterwards had negotiations with the solicitors of G. and at their suggestion offered to sell the same property to G. for \$13,000, but without further notice to his co-trustee. The offer was accepted by the solicitors, whereupon the party who had offered \$12,000 raised his offer to \$14,000, and the trustee notified the solicitors of G. that the sale to him was cancelled. In a suit by G. for specific performance,

Held, affirming the judgment of the Court of Appeal ((1904) L.R. 522) that the letter written by the co-trustee in St. Mary's contained a consent to the particular sale mentioned therein only and could not be construed as a general consent to a sale to any person even for a higher price. Even if it could there were circumstances which occurred between the time it was written and the signing of the contract with G. which should have been communicated to the co-trustee before he could be bound by said contract. Appeal dismissed with costs.

Ritchie, K.C., for appellant. *Aylesworth*, K.C., and *Delamere*, K.C., for respondents.

Bd. Ry. Comm.]

[April 6.

JAMES BAY RY. CO. v. GRAND TRUNK RY. CO.

Board of Railway Commissioners—Jurisdiction—Appeal to Supreme Court.

The Board of Railway Commissioners granted an application of the James Bay Ry. Co. for leave to carry their line under