

Held, (1) that under s. 30 of c. 9, R.S.C., the trial judges had a perfect right to try A.V. petition separately.

(2) That the ruling of the court below on the objection relied on in the present appeal, viz., that the trial judges could not proceed with the petition in this case because the two petitions filed had not been bracketed by the prothonotary as directed by s. 30 of c. 9, R.S.C., was not an appealable judgment or decision. R.S.C., c. 9, s. 50. SEDGEWICK, J., doubting.

Appeal dismissed with costs.

Bisaillon, Q.C., for the appellant.

F. X. Choquette for the respondent.

EXCHEQUER COURT OF CANADA.

BURBIDGE, J.]

[Jan. 23.

ARCHIBALD *v.* THE QUEEN.

Construction of public work—Interference with public rights—Damage to individual enjoyment thereof—Liability—50, 51 Vict., c. 16, s. 16 (c.)—Construction of.

Where the Crown, by the construction of a public work, has interfered with a right common to the public, a private owner of real property, whose lands or any right or interest therein have not been injured by such interference, is not entitled to compensation in the Exchequer Court, although it may happen that the injury sustained by him is greater in degree than that sustained by other subjects of the Crown.

The injurious affection of property by the construction of a public work will not sustain a claim against the Crown based upon clause (c.) of the 16th section of the Exchequer Court Act (50, 51 Vict., c. 16), which gives the court jurisdiction in regard to claims arising out of any death or injury to the person or to property on any public work resulting from the negligence of any officer or servant of the Crown while acting in the scope of his duties or employment.

R. G. Code for the suppliant.

W. B. A. Ritchie for the Crown.

[March 13.

THE QUEEN *EX REL.* ATTORNEY-GENERAL OF CANADA *v.* FARWELL

Information of intrusion—Appropriate remedies to be prayed for therein—Injunction to re-convey—Practice—Subsequent action between same parties—Res judicata.

Where, in a former action by information of intrusion to recover possession of land, the title to such land was directly in issue and determined, the judgment therein was held to be conclusive of the issue of title sought to be raised by the defendant in a subsequent action between the same parties.

An order directing the defendant to re-convey the land is not an appropriate part of the remedy to be given upon an information of intrusion.