

1900 THE PROVINCE OF ONTARIO.....APPELLANT;
May 1. AND
 THE PROVINCE OF QUEBEC {
 AND THE DOMINION OF { RESPONDENTS.
 CANADA

In re COMMON SCHOOL FUND AND LANDS.

ON APPEAL No. 2 FROM AWARDS IN AN ARBITRATION
 RESPECTING PROVINCIAL ACCOUNTS.

*Appeal—Jurisdiction—Award of arbitrators, 54 & 55 V. c. 6 (D.)—
 54 V. c. 2, (Ont.)-- 54 V. c. 4 (Que.)*

In an award made under the provisions of the Acts, 54 & 55 Vict. ch. 6, sec. 6 (D.), 54 Vict. ch. 2, sec. 6 (Ont.) and 54 Vict. ch. 4, sec. 6 (Que.) there can be no appeal to the Supreme Court of Canada, unless the arbitrators in making the award set forth therein a statement that in rendering the award they have proceeded on their view of a disputed question of law.

APPEAL from the awards made on the sixth of March, 1896, and on the twenty-first of October, 1899, by the arbitrators appointed to adjust the accounts between the Dominion of Canada and the Provinces of Ontario and Quebec respectively, and between the said provinces, under the authority of statutes passed by the Dominion of Canada and the said provinces respectively, viz., 54 & 55 Vict. ch. 6 (D.), 54 Vict. ch. 2 (Ont.), and 54 Vict. ch. 4 (Que.)

The Acts referred to are identical and are quoted in the report of a former appeal in respect to an award relating to the Common School Fund and lands of the

*PRESENT:—Sir Henry Strong C.J. and Taschereau, Gwynne, Sedgewick and King JJ.

former Province of Canada (1), and each contains a provision that the arbitrators shall not be bound to decide according to the strict rules of law or evidence but may decide upon equitable principles, and when they do proceed on their view of a disputed question of law, the award shall set forth the same at the instance of either or any party and that any award made under the Acts shall be, in so far as it relates to disputed questions of law, subject to appeal to the Supreme Court of Canada and thence to the Judicial Committee of Her Majesty's Privy Council, in case their lordships are pleased to allow such appeal.

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It appeared that, at the time of rendering of the awards now appealed from, the arbitrators did not declare, but refused to declare, that in rendering the said awards or either of them they had proceeded as on a disputed question of law.

A motion was made on behalf of the Province of Quebec to quash the appeal for want of jurisdiction.

*Trenholme Q.C.* for the motion.

*Shepley Q.C.* (*Æmelius Irving Q.C.* with him) contra.

*Hogg Q.C.* watched the case for the Dominion of Canada.

The judgment of the court was delivered by:

THE CHIEF JUSTICE.—(Oral.)—We all agree that the motion to quash should be granted. We need not go beyond the words of the Act which make the statement on the face of the award that the arbitrators proceeded on a question of law an indispensable condition precedent to the right to appeal. The point is not arguable. I have never known a question of juris-

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diction to be raised here so extremely clear against  
the competence of the court.

The motion to quash is granted.

*Appeal quashed.*