

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ex. C.] LEGER v. THE KING. [Mar. 11.
Construction of statute—7 & 8 Edw. VII. c. 31, s. 2—Government railway—Fire from engine—Negligence—Damages.

By 7 & 8 Edw. VII. c. 31, s. 2, the Government of Canada is liable for damage to property caused by a fire started by a locomotive working on a government railway whether its officers or servants are or are not negligent and by a proviso the amount of damages is limited if modern and efficient appliances have been used and the officers or servants "have not otherwise been guilty of any negligence."

Held, DAVIES, J., dissenting, that the expression "have not otherwise been guilty of any negligence" means negligence in any respect and not merely in the use of a locomotive equipped with modern and efficient appliances.

Sparks from a locomotive set fire to the roof of a government building near the railway track, and the fire was carried on to and destroyed private property. The roof of this building had on several previous occasions caught fire in a similar way, and the government officials though notified on many of such occasions had only patched it up without repairing it properly.

Held, reversing the judgment of the Exchequer Court (12 Ex. C.R. 389) that the government officials were guilty of negligence in having a building with a roof in such condition so near to the track, and the owner of the property destroyed was entitled to recover the total amount of his loss.

Appeal allowed with costs.

Teed, K.C., for appellant. *Chrysler*, K.C., for respondent.

Ry. Board.] [Feb. 15.

C.P. Ry. Co. v. CITY OF TORONTO.

Railways—Jurisdiction of Board of Railway Commissioners—Highway—Construction of statute—R.S.C. 1906, c. 37, ss. 2(2) — Deviation of tracks—Dedication — User — "Public way or means of communication"—Access to harbour—Navigable waters.

Prior to 1888 the G.T. Ry. Co. operated a portion of its