
REPORTS AND NOTES OF CASES

Dominion of Canada.

EXCHEQUER COURT.

BURBIDGE, J.]

[Oct. 11.]

THE QUEEN, on information of Attorney-General, *v.* POUPORE.*Contract—Public works—Negligence—Sufficiency of proof.*

In an action by the Crown for damages arising out of an accident alleged to be due to the negligence of a contractor in the performance of his contract for the construction of a public work, before the contractor can be held liable the evidence must show beyond reasonable doubt that the accident was the result of his negligence, and must exclude all presumptions as to its having arisen in any other way.

*B. B. Osler, Q.C., and E. L. Newcombe, Q.C., D.M.J., for plaintiff.**A. B. Aylesworth, Q.C., W. D. Hogg, Q.C., and J. Christie, for defendants.*

BURBIDGE, J.]

[Oct. 11.]

DOMINION ATLANTIC RAILWAY COMPANY *v.* THE QUEEN.*Practice—Submission to arbitration—Award—Rule of Court—Judgment.*

The Exchequer Court has no jurisdiction to entertain an application to make an award under a submission to arbitration by consent, in a matter *ex foro*, a judgment of the Court.

*C. J. R. Bethune, for motion to make award judgment of Court.**F. H. Gisborne, contra.*

Province of Ontario.

HIGH COURT OF JUSTICE.

BACON *v.* RICE LEWIS & SON (LIMITED).*Fixtures—Machinery—Mortgage of trade fixtures—Rights as between mortgagee of real estate and chattel mortgagee.*

A chattel mortgage on *de facto* fixtures, although duly filed, will not prevail as against a subsequent purchaser or mortgagee of the land who registers his mortgage or conveyance, and has no actual notice of the prior chattel mortgage.

The bolting of machines to foundation timbers firmly embedded in the soil is equivalent to other recognized modes of attachment, *e.g.*, nailing to a floor.

[TORONTO, Sept. 23, 1897.—FALCONBRIDGE, J.]

This was an action brought by the executors and trustees of the will of John Bacon, deceased, against Rice Lewis & Son (Limited). In 1874 one John Perkins purchased the south-east corner of Front and Princess streets,