

PROBATE ACT, (R. S., ch. 130, 2nd series, sec. 13 & 18.) Construction of set. led.— <i>In re Estate of McKay</i>	131
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COURT, power of..... See WILL, 5.	549
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PUBLIC BODIES, liability of for torts.

Plaintiff sustained an injury from earth left on the street by V. V., had obtained permission from P., a public officer, (Superintendent of Streets) in the employ of defendants, to place the earth there, but not to leave it there after ten o'clock at night. The earth was left on the street all night, but the accident occurred before ten o'clock. It did not appear that the defendants were aware of the earth being so deposited or left.

Held: That as the defendants were a public body, discharging a public duty gratuitously, and had no share or participation in the wrong complained of, it having been done without their consent or knowledge, that they were not liable, and that the action could not be maintained.—*Ebens v. City of Halifax*.....

PUBLIC HIGHWAY.

1. Where land was used as a way in the early settlement of the country, but a regular public highway was afterwards substituted for it, and from that time, being fifty years before action brought, the old way was disused,
Held, an abandonment of the ancient right of way, if any, and that the owner of the soil over which the way passed held it exempt from the public right, (whatever the extent of it may have been), that had previously burthened it.—*Leary v. Saunders et al.*..... 17
2. *Semble*, To constitute a public highway by user, there must be an intention, express or implied, of dedication to the public on the part of the owner who permits such user.—*Ibid.*..... 17
3. There may be a public highway without its being a thoroughfare, but where such highway is claimed by dedication, the acts or declarations relied on to support it must be clear and unequivocal, with manifest intention to dedicate.—*Hawkins v. Baker et al.*..... 419
4. There is a difference between a *cul-de-sac* in the city and one in the country, much stronger acts being required to establish a public highway by dedication in the latter than in the former.—*Ibid.*..... 419
5. The mere acting so as to lead persons to suppose that a way is dedicated does not amount to a dedication, if there be an agreement which explains the transaction.—*Ibid.*..... 419

QUO WARRANTO, practice as to..... See CORPORATION, 3.	333
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