
 REPORTS AND NOTES OF CASES.

 Dominion of Canada.

 SUPREME COURT.

Exch.] THE KING v. ARMSTRONG. [May 5.
Negligence of fellow-servant—Operation of railway—Defective switch—Public work—Tort—Liability of Crown—Right of action—Exchequer Court Act, s. 16 (c)—Lord Campbell's Act—Art. 1056 C.C.

In consequence of a broken switch, at a siding on the Intercolonial Railway (a public work of Canada), failing to work properly although the moving of the crank by the pointsman had the effect of changing the signal so as to indicate that the line was properly set for an approaching train, an accident occurred by which the locomotive engine was wrecked and the engine-driver killed. In an action to recover damages from the Crown, under article 1056 of the Civil Code of Lower Canada,

Held, affirming the judgment appealed from that there was such negligence on the part of the officers and servants of the Crown as rendered it liable in an action in tort; that the Exchequer Court Act, 50 & 51 Viet. c. 16, s. 16 (c), imposed liability upon the Crown in such a case, and gave jurisdiction to the Exchequer Court of Canada to entertain the claim for damages, and that the defence that deceased, having obtained satisfaction or indemnity within the meaning of article 1056 of the Civil Code, by reason of the annual contribution made by the Railway Department towards the Intercolonial Railway Employees' Relief and Insurance Association, of which deceased was a member, was not an answer to the action. *Miller v. Grand Trunk Ry. Co.* (1906) A.C. 187, followed. Appeal dismissed with costs.

Newcombe, K.C., for appellant. *R. C. Smith*, K.C. and *W. G. Mitchell*, for respondent.

B.C.] MARKS v. MARKS. [May 5.
Will—Construction—Description of legatee—Devise "to my wife"—Bigamous marriage—Evidence—Burden of proof.

A devise made in a will "to my wife" was claimed by two women, with both of whom the testator had lived in the relationship of husband and wife.