

of—Agreement to discontinue business—Determination of agreement. B, a manufacturer of glassware, entered into a contract with two companies in the same trade, by which in consideration of certain quarterly payments, he agreed to discontinue his business for five years. The contract provided that if at any time during the five years any furnace should be started by other parties for the manufacture of glassware, either of the said companies could, if it wished, by written notice to B, terminate the agreement "as on the first day on which glass has been made by the said furnace," and the payments to B. should then cease unless he could show "that said furnace or furnaces at the time said notice was given could not have a production of more than \$100 per day." Held, affirming the decision of the Court of Review, that under this agreement B. was only required to show that any furnace so started did not have an actual output worth more than \$100 per day on an average for a reasonable period, and that the words "could not have a production of more than one hundred dollars per day" did not mean mere capacity to produce that quantity whether it was actually produced or not. Appeal dismissed with costs.

THE Queen v. Filion.—Exchequer—11 March, 1895.—Crown—Negligence of servants or officers—Common employment—Law of Quebec—50 & 51 Vic., c. 16, s. 16 (c). A petition of right was brought by F. to recover damages for the death of his son caused by the negligence of servants of the Crown while engaged in repairing the Lachine canal. Held, affirming the decision of the Exchequer Court, Taschereau, J., dissenting, that the Crown was liable under 50 & 51 Vic., c. 16, s. 16 (c); and that it was no answer to the petition to say that the injury was caused by a fellow servant of the deceased the case being governed by the law of the Province of Quebec, in which the doctrine of common employment has no place. Appeal dismissed with costs.

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VILLAGE of Pointe Claire v. Pointe Claire Turnpike Road Co.—Quebec.—6

May, 1895.—Statute—Construction of—Retroactive effect of—Municipal Corporation—Turnpike Road Company—Erection of toll gates—Consent of corporation. A turnpike road company had been in existence for a number of years in the village of Pointe Claire, and had erected toll gates and collected tolls therefor, when an Act was passed by the Quebec Legislature, 52 Vic., 43, forbidding any such company to place a toll or other gate within the limits of a town or village without the consent of the corporation. Sec. 2 of said act provided that "this act shall have no retroactive effect," which section was repealed in the next session by 54 Vic., c. 37. After 52 Vic., c. 42 was passed, the company shifted one of its toll gates to a point beyond the limits of the village, which limits were subsequently extended so as to bring said gate within them. The Corporation took proceedings against the company, contending that the repeal of sec. 2 of 53 Vic., c. 43, made that act retroactive and that the shifting of the toll gate without the consent of the corporation was a violation of the said act. Held, affirming the decision of the Court of Queen's Bench, that as a statute is never retroactive unless made so in express terms, sec. 2 had no effect, and its repeal could not make it retroactive; that the shifting of the toll gate was not a violation of the act, which only applied to the erection of new gates; and that the extension of the limits of the village could not affect the possessory rights of the company. Appeal dismissed with costs.

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Town of Trenton v. Dyer et al.—Ontario.—6 May, 1895.—Statute—Directory or imperative requirement—Municipal corporation—Collection of taxes—Delivery of roll to collector—55 Vic., c. 48 (O). By s. 119 of The Toronto Assessment Act (55 V., c. 48), provision is made for the preparation in every year by the clerk of each municipality of a "collectors roll" containing a statement of all assessments to be made for municipal purposes in the year, and s. 120 provides for a similar roll with respect to taxes