not to impair its usefulness, and it or any other company operating the road was liable for injury resulting from the dangerous condition of the highway to persons lawfully using it.

Held, further, that the bell not having been rung as the statute required the company was liable for injuries caused by the horses taking fright and overturning the wagon so that the occupants were thrown on to the track, though the engine and the wagon did not come in contact. *Grand Trunk Railway Company* v. *Rosenberger* (9 S.C.R. 311) followed.

Appeals dismissed with costs.

McCarthy, Q.C., for the appellants.

Burns for the respondents.

Quebec.] [April 4.

BLACHFORD *v.* MCBAIN.

Lessor and lessee—Amount claimed—Arts. 887 and 888 C.P.C.—Jurisdiction.

Held, affirming the judgment of the court below, that where in an action brought by the lessor under Arts. 887 and 888 C.P.C. to recover possession of the premises a demand of $46 is joined for the value and occupation since the expiration of the lease, such action must be brought in the Circuit Court, the amount claimed being under $100. Arts. 887 and 888 C.P.C.—FOURNIER, J., dissenting.

Appeal dismissed with costs.

Duclos for appellant.

Archibald, Q.C., for respondent.

THE QUEEN *v.* MARTIN.

Negligence of servant—Crown—Liability of—50 & 51 Vict., c. 16—Prescription—Arts. 2262, 2267, 2188, 2211 C.C.

Held, reversing the judgment of the Exchequer Court, that even assuming 50 & 51 Vict., c. 16, gives an action against the Crown for an injury to the person received on a public work resulting from negligence of which its officer or servant is guilty (upon which point the court expresses no opinion), such act is not retroactive in its effect and cannot be relied on for injuries received prior to the passing of the act.

Held, also, even assuming that under the common law of the Province of Quebec, or statutes in force at the time of the injury received, the Crown could be held liable, the injury complained of having been received more than a year before the filing of the petition the right of action was prescribed. Arts. 2262, 2267, 2188, 2211 C.C.

Appeal allowed without costs.

Robinson, Q.C., and *Ferguson*, Q.C., for appellant.

Belcourt and *Taché* for respondent.

BELL TELEPHONE CO. *v.* CITY OF QUEBEC.

QUEBEC GAS CO. *v.* CITY OF QUEBEC.

Appeal—Action to set aside municipal by-law—Supreme and Exchequer Courts Act, s. 24 (g).

In virtue of a by-law passed at a meeting of the council of the corporation of the City of Quebec in the absence of the mayor, but presided over by a councillor elected to the chair in the absence of the mayor, an annual tax of $800 was imposed on the Bell Telephone Company of Canada (appellant), and a tax of $1000 on the Quebec Gas Company. In actions instituted by the appellants for the purpose of annulling the by-law, the Court of the Queen's Bench for Lower Canada (appeal side) reversed the judgment of the Superior Court, and dismissed the actions, holding the tax valid.

On appeal to the Supreme Court of Canada,

Held, that the cases were not appealable, the appellants not having taken out, or been refused, after argument, a rule or order quashing the by-law in question within the terms of s. 24 (*g*) of the Supreme and Exchequer Courts Act, providing for appeals in cases of municipal by-laws.

Varennes v. *Vercheres* (19 S.C.R. 365), *Sherbrooke* v. *McManamy* (18 S.C.R. 594), followed.

Appeal quashed without costs.

Irvine, Q.C., and *Stuart*, Q.C., for appellants.

P. Pelletier, Q.C., for respondent.

ACCIDENT INSURANCE CO. *v.* YOUNG.

Accident Insurance—Immediate notice of death—Waiver—External injuries producing erysipelas—Proximate or sole cause of death.

An accident policy issued by the appellants was payable in case, *inter alia*, the bodily injuries *alone* shall have occasioned death within ninety days from the happening thereof, and