

rupted, undiminished and unpolluted flow of the water past their lands for the purposes incidental to their ownership. The company purchased those lands solely by virtue of the limited authority given it by its Act of incorporation, and for the purposes only of that Act.

Under the provisions of the Water Clauses Consolidation Act, 1897, the city have a right to the waste or unrecorded waters of Goldstream River, and under the Corporation of Victoria Water Works Act, 1873, they have a right to the compulsory acquisition of the whole of the interests of the company on the said river.

Per HUNTER, C.J., dissentiente:—The Legislature, having regard to the nature of the company's undertaking and the conditions it imposed, when it conferred the right "from time to time, and at all times hereafter," to divert and appropriate the waters of Goldstream, granted an exclusive license subject only to the rights conferred on the city by its Act of 1873, and amending Acts; and that the interest or right having sprung into existence, was not intended to be prejudiced by any subsequent legislation.

Per DUFF, J., at the trial:—The enactments dealing with the introduction into the colonies of British Columbia and Vancouver Island, of the general body of English law, clearly do not amount to a declaration of the non-existence of the law regulating riparian rights in those colonies.

Judgment of Duff, J., reversed.

W. J. Taylor, K.C., and Bodwell, K.C., for the corporation, appellants.

Luxton, K.C., Peters, K.C., and R. T. Elliott, for the company.

Martin, Co. J.]

[Jan. 9.

BOW McLACHLAN & CO. v. SS. CAMOSIN.

Admiralty law—Rule 63, scope of to include an equitable set-off
—Evidence—Trial, balance of convenience.

In an action in the Exchequer Court of Canada (admiralty jurisdiction), for the price of a ship, where the circumstances entitle the defendant to a reduction of the amount claimed, if such claim can be substantiated, the Court will not exclude the proposed set-off.