

this property by the Imperial authorities, the existence of which was not known to the officers of the Dominion Government, and it was not discovered at an examination of the premises in 1880 by the City Engineer of Quebec and others. Before 1877 this drain had become choked up, and the water escaping gradually loosened the earth until in 1889, a large portion of rock fell from the cliff into a street of the city below, causing great damage, for which compensation was claimed from the Government.

*Held*, affirming the decision of the Exchequer Court, that as the injury to the property of the city did not occur *upon* a public work, subsec. (c) of the above act did not make the Crown liable, and moreover there was no evidence that the injury was caused by the negligence of any officer or servant of the Crown while acting within the scope of his duties or employment.

*Held*, per Strong, C. J., and Fournier, J., that while subsec. (c) of the act did not apply to the case, the city was entitled to relief under subsec. (d); that the words "any claim against the Crown" in that subsection, without the additional words would include a claim for a tort; that the added words, "arising under any law of Canada," do not necessarily mean any prior existing law or statute law of the Dominion, but might be interpreted as meaning the general law of any province of Canada; that this case should be decided according to the law of Quebec regulating the rights and duties of proprietors of land situated on different levels; and that under such law, the Crown, as proprietor of land on the higher level, was bound to keep the drain thereon in good repair and was not relieved from liability for damage caused by neglect to do so by the ignorance of its officers of the existence of the drain.

Appeal dismissed with costs.

*Pelletier, Q.C., & Quinn, Q.C.*, for the appellant.

*Hogg, Q.C.*, for the respondent.

6 May, 1895.

DIONNE V. THE QUEEN.

Quebec.]

*Pension—Commutation—Transfer or cession—R. S. P. Q., Arts. 690, 693.*

D, a retired employee of the Government of Quebec, surrendered his pension for a lump sum to the Government, and his