
Province of British Columbia.

SUPREME COURT.

Morrison, J.] MACPHERSON v. CITY OF VANCOUVER. [Sept. 10.

Municipal law—Defective sidewalk—Accident—Injury arising from—Duty of municipality to safeguard—Misfeasance—Nonfeasance—Damages.

Plaintiff was injured by stepping on a wooden grating in a sidewalk, which grating, when put in, was found on the evidence to be structurally defective. The grating was put in by the owners of the abutting property under a permit from the corporation.

Held, that notwithstanding the statutory provision as to notice to the corporation of accidents so happening, the corporation must be taken to have had knowledge of the originally defective construction of the grating, and were therefore liable.

J. A. Russell, for plaintiff. W. A. Macdonald, K.C., for defendant corporation.

Martin, J.] IN RE THOMPSON. [Sept. 17.

Criminal law—Justice of the peace—Statement to, by offending party—Summons issued thereon—Illegal issue of—Illegal issue—Crim. Code, ss. 654, 655.

A constable before the expiration of his term of imprisonment released from custody an Indian who had been convicted and sentenced to fourteen days' imprisonment. The constable then went before one of the convicting magistrates and told him that acting upon instructions from the Superintendent of Indian Affairs at Ottawa he had released the Indian. The magistrate thereupon had a summons issued and served upon the constable calling upon him to appear in answer to a charge of unlawfully releasing the Indian. The constable appeared before two justices of the peace upon said charge and by his counsel objected that the magistrates had not jurisdiction to deal with the matter as there was no sworn information. The magistrates over-ruled the objection, held a preliminary enquiry, and committed the accused for trial.