Burbidge, J.] [Apr. 9.

QU'APPELLE, ETC., RAILROAD AND STEAMBOAT COMPANY *v.* THE KING.

Contract for grant of public domain—Breach of—Remedy—Jurisdiction—Declaration of right.

Petition of right.—The Exchequer Court of Canada has jurisdiction in respect of a claim arising out of a contract to grant a portion of the public domain made under the authority of an Act of Parliament, and such a claim may be prosecuted by a petition of right.

Where the Court has jurisdiction in rebject of the subject-matter of a petition of right, the petition is not open to objection on the ground that a merely declaratory judgment or order is sought thereby. If on the other hand, there is no jurisdiction, no such declaration should be made. *Clark* v. *The Queen*, 1 Ex. C. R. 182, considered.

C. Robinson, K.C., for suppliants. *S. H. Blake*, K.C., and *E. L. Newcombe*, K.C., for respondent.

LETOURNEUX *v.* THE QUEEN.

Damages to land—Public work—50-51 Vict., c. 16, s. 16 (d)—Liability.

Petition of right.—It is the owner of the land at the time a public work is constructed that is entitled to damages for lands for, or injuriously affected by, such construction, and not his successor on title.

Held, in view of the opinions in *City of Quebec* v. *The Queen*, 24 S.C.R. 420, that where the injury to property does not occur on a public work the suppliant has no remedy under 50 and 51 Vict., c. 16, s. 16 (d), which provides that the Exchequer Court shall have jurisdiction in respect of "every claim against the Crown arising out of any death or injury to the person or to property on any public work, resulting from the negligence of any officer or servant of the Crown while acting within the scope of his duties or employment.

Where in the division of his land the owner dedicates a portion to the public for a street or highway, a part of which is subsequently taken by the Crown for a public work, the owner is not entitled to compensation for the part so taken.

Stebbing v. *Metropolitan Board of Works*, L.R. 6 Q.B. 37, and *Paint* v. *The Queen*, 2 Ex. C. R. 149, 18 S.C.R. 718, followed.

Marichal, for suppliant. *Globensky* and *Hutchinson*, K.C., for respondent.