

the city streets was made to connect with a country road, the works being adjacent to a city street but not within the city limits.

*Held.* 1. The city was interested within the meaning of the term as used in the 188th section of the Railway Act, which provides that the Railway Committee might apportion the cost of such works as those in question between the railway company "and any person interested therein."

2. On an application to make an order of the Railway Committee of the Privy Council a rule of Court, the Courts will not go into the merits of the order, or consider objections to the procedure followed by the Railway Committee.

*Semble*, that while the Railway Committee of the Privy Council has jurisdiction in such a case, to impose upon the party interested an obligation to bear part of the expenses, it has no jurisdiction to compel a party other than the railway company to execute the works.

Orders made a rule of Court.

*J. McD. Mowat* and *Glyn Osler* for the motion. *D. M. McIntyre* contra.

Burbidge, J.]

VROOM v. THE KING.

[Dec. 7, 1903.

*Petition of right—Damage to lands—Subsidence—Release of claim—Liability.*

In connection with the work of affording terminal facilities for the Intercolonial Railway at the port of St. John, N. B., the Dominion Government acquired a portion of the suppliant's land and a wharf, the latter being removed by the Crown in the course of carrying out such works. For the lands and wharf so taken by the Crown, the suppliant was paid a certain sum, and he released the Crown from all claims for damages arising from the expropriation by Her Majesty of the "lands and premises, or the construction and maintenance thereon of a railway or railway works of any nature". One of the effects of the removal of the wharf was to leave a wharf remaining on the suppliant's land more exposed than it formerly had been to the action of the waves and tides; but no sufficient measures were taken by the suppliant to protect his property or to keep it in a state of repair.

*Held*, that there was no obligation upon the Crown, under the circumstances, to construct works for the purpose of protecting the suppliant's property; and as the injury complained of happened principally because the suppliant had failed to repair his wharf the Crown was not liable therefor.

*W. Pugsley*, K.C., for suppliant. *McAlpine*, for the respondent.