

of such a bailee to take reasonable care; yet the duty to take reasonable care in the bailment of hire (*locatio rei*) is as much an obligation, superimposed by law upon the actual contract, as the duty of an insurer is in the case of the bailment of common carriage (*locatio operis mercedis vehendarum*). As Dr. Holland puts it:—"What is called, with reference to carriers, the 'custom of the realm,' is really a term implied by law in the contract of carriage." (*Elem. of Juris*, 9th ed., p. 241.) Finally, when we read the following observations by the Court on the contract in *Johnson v. The King*—"Such a contract involved all its usual terms and incidents, as well those that were expressed as those that arose by law upon the contract being entered into"—we fail to see any ineluctable reason why the Crown should not be held liable under a petition of right based upon a bailment of common carriage.

As a result of our review of the cases in the Supreme Court of Canada, and in the Exchequer Court of Canada, we venture to think that the doctrine that the Crown, in respect of the conveyance of goods over the government railways of Canada, cannot be held liable as a common carrier, is unsound. Furthermore, we think it reasonably clear that under the Dominion Petition of Right Act of 1876, read in conjunction with the Supreme Court and Exchequer Court Acts of 1875, the Crown might have been held liable on an undertaking to carry goods to the same extent as an ordinary common carrier; and that under subsequent remedial legislation embodied in the Exchequer Court Act (R.S.C. 1906, ch. 140) and the Government Railways Act (R.S.C. 1906, ch. 36), this liability, both in its contractual and delictual aspects, is established beyond doubt.

UNIFORMITY OF LAWS IN THE WESTERN PROVINCES.

It seems that there was no probant reason for the division of Alberta, Saskatchewan and Manitoba into three distinct provinces. There was an ethnical one for the division of Upper and Lower Canada. There might have been a justification in the separation of the Maritime Provinces on account of their respective origins, and British Columbia was also in a special position.

But as the Western, or I should rather mention them by their appropriate name, the Central Provinces, were all taken from Rupert's Land, they derive their respective individualities from the same source. Their traditions are alike, the conditions of the soil and their respective geographical positions are the same and they are inhabited by a population ethnically identical so it is a pity that their political Governments should not be one with one common aim, one common administration, one common system of Courts.