

Held. [MAGARTY, C.J.O., dissenting], revering the decision of the Chancery Division, that the accident was due to the carelessness of the deceased and not to the negligence of the defendants, and that the plaintiff could not recover.

The extent of the duty of railway companies in providing safe access to their stations considered.

McCarthy, Q.C., and H. Nesbitt, for the appellants.

H. R. Meredith, Q.C., and R. M. Meredith, for the respondents.

PRATT: THE MUNICIPAL CORPORATION OF THE CITY OF STRATFORD.

Municipal Corporation—Jurisdiction over streets—Changing level of street—Damage to adjacent owners—Absence of by-law—Remedy by action or arbitration.

Held. [BURTON, J.A., dissenting], affirming the decision of BOYD, C., that a municipal corporation can exercise and perform their statutable powers and duties in repairing highways or bridges, or erecting a new bridge instead of an old and unsafe one without passing a by-law therefor, and that the plaintiff, whose premises were "injuriously affected" by the level of the street on which they fronted being raised in order to construct a proper approach to a bridge that the defendants were lawfully re-building, could not maintain an action against the defendants, but must, in the absence of any negligent construction, proceed under the arbitration clauses of the Municipal Act R.S.O. c. 184, notwithstanding the absence of any by-law for the prosecution of the work.

Per BURTON, J.A. There was no obligation cast upon the defendants to re-build the bridge at such a height as to necessitate a change in the level of the street, and therefore the defendants could not lawfully change the level of the street without passing a proper by-law or that purpose.

Yeomans v. The County of Wellington, 4 A.R. 301, followed. *McGarvey v. The Town of Strathroy*, 10 A.R. 636, and *Adams v. The City of Toronto* 12 O.R. 243, discussed. *Van Egmond v. The Town of Seaford*, 6 O.R. 610, distinguished.

W. Casse's, Q.C., for the appellant.

Idington, Q.C., for the respondents.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

MACMAHON, J.]

[Dec. 31, 1888.

REGINA P. WARREN.

Criminal law—Keeping house of ill-fame—Husband and wife—Joint conviction.

There may be a joint conviction against husband and wife for keeping a house of ill-fame; the keeping has nothing to do with the ownership of the house, but with the management of it.

Rex v. Williams, 10 Mod. 63, and *Rex v. Dixon*, 1b. 335, followed.

Badgerow, for the Crown.

W. G. Murdoch, for the prisoner.

Div'l. Ct.]

[Dec. 22, 1888.

MCDIARMID P. HUGHES.

Company—Power to hold lands—Statutes of mortmain—Constitutional law—Powers of Dominion Parliament—Statute of limitations—Defendant setting up—Estopped by assenting to conveyance.

A conveyance of lands to a corporation not empowered by statute to hold lands, is voidable only and not void, under the statutes of mortmain, and the lands can be forfeited by the Crown only.

Where, too, a corporation is empowered by statute to hold lands for a definite period, and holds beyond the period, only the Crown can take advantage of it, and it is not a defence to an action of ejectment that the lands were acquired by the plaintiff from the corporation after the period fixed by the statute.

Semble, the Dominion Parliament has power to enact that a license from the Crown shall not be necessary to enable corporations to hold lands within the Dominion; and Dominion Act enabling a Quebec Corporation to hold lands in Ontario would operate as a license.

By an arrangement made within ten years before this action of ejectment was begun, the