

mation for intrusion upon lands of the Crown governed the practice of the Exchequer Court of Canada in such matters until May 1st, 1895, when a general order was passed by that court, enabling the joinder of such claims.

Rule 36 of the English Rules above mentioned, providing that in cases of judgment by default either for non-appearance or for want of pleading to informations of intrusion no costs are to be allowed to the Crown, is still in force in the Exchequer Court of Canada.

W. E. Hodgins, in support of motion for judgment.

DAVIDSON v. QUEEN.

Petition of Right—Damages from public work—Liability of Crown—Assessment of damages once for all—50-5, Vict., c. 16, s. 16(b).

The Dominion Government constructed a collecting drain along a portion of the Lachine Canal. This drain discharged its contents into a stream and syphon culvert near the suppliant's farm. Owing to the incapacity of the culvert to carry off the large quantity of water emptied into it by the collecting drain at certain times the suppliant's farm was flooded and his crops thereby injured. The flooding was not regular and inevitable, but depended upon certain natural conditions which might or might not occur in any given time.

Held, that the Crown was liable in damages; that the case was one in which the Court had jurisdiction under clause (b) of s. 16 of the Exchequer Court Act; and that in assessing the damages in such a case the proper mode was to assess them once for all.

J. U. Emard, for suppliant. *J. S. Hall*, Q.C., for respondent.

Province of Ontario.

COURT OF APPEAL.

MacLennan, J.A.]

[Feb. 11.

IN RE TOWNSHIP OF RALEIGH AND TOWNSHIP OF HARWICH.

Appeal—Drainage Act, 57 Vict., c. 56, s. 106—Rules applicable to High Court appeals—Time—Vacation—Motion to confirm proceedings—Costs.

The Rules applicable to appeals from the High Court to the Court of Appeal are to be applied, as far as possible, to appeals from reports of the Drainage Referee under the Drainage Act, 57 Vict., c. 36; and the Christmas Vacation is to be excluded in the computation of the month within which, by s. 106 of that Act, such an appeal is to be made.

Where the respondents' solicitors, by letter, insisted that the appeal was not regularly or properly brought, the appellants were justified in making a motion to extend the time for taking certain steps or to confirm the proceedings taken, and were entitled to the costs of such motion, although it was, strictly speaking, unnecessary, because the proceedings were found to be regular.

J. H. Moss, for appellants. *E. D. Armour*, Q.C., for respondents.