There is no substantial question of law involved. The view taken of the intention of the parties as to the method of scaling and the persons by whom it was to be done, as appearing by the contract itself, read in the light of the circumstances, appears to be not without plausible force. No question of law of general application is raised. The contract is said not to be in common or usual form in some respects. Its meaning turns upon its special language, and there is a good deal in the case that gives colour to the view that the parties intended that the work of the Government scalers should govern in this particular instance.

The proximity to the statutory limit of the sum awarded against the defendant by the judgment is obviously not in itself a sufficient special circumstance. On the whole, there do not appear to be any special reasons for treating the case as exceptional.

The application is refused with costs.

HIGH COURT OF JUSTICE.

DIVISIONAL COURT. MARCH 16TH, 1911.

*BOYD v. CITY OF TORONTO.

Easement—Lateral Support—Withdrawal by Operations in Street Adjoining Plaintiff's Land—Subsidence—Injury to Buildings—Right to Support Independent of Prescription—Compensation for Damage Caused—Appreciable Disturbance—Absence of Negligence—Questions for Jury.

Appeal by the defendants from the judgment of RIDDELL, J., upon the findings of a jury, in favour of the plaintiff, for the recovery of $600 damages and costs.

The action was for damages for the injury caused to the plaintiff's land and house by the operations of the defendants, the city corporation, in digging a trunk sewer in Wyatt avenue, without taking proper precautions for shoring up the sides, whereby a subsidence of the plaintiff's land fronting on Wyatt avenue resulted and the walls of his house were cracked, etc.

The appeal was heard by BOYD, C., LATCHFORD and MIDDLETON, JJ.

*To be reported in the Ontario Law Reports.