

RECORD. 11. In 1892 the limits of the City of Victoria were extended by the "City of Victoria Act, 1892," Statutes of British Columbia, 1892, c. 63, s. 16, so as to include the said bridge within the area of the City of Victoria.

12. In June, 1892, while a tramcar heavily laden with passengers was passing over the said bridge one of the floor beams broke at the hanger holes, but the tramcar passed over the bridge in safety. After this accident the bridge was examined by the order of the Appellants. Five of the floor beams of the span which collapsed were replaced with new timber, a new flooring was laid over, transverse planking being substituted for diagonal planking. Heavy longitudinal beams or stringers were laid down for the purpose of adding strength to the bridge, and of preventing vibration when tramcars passed over the bridge. The Tramway Company paid for the stringers and also for the cost of laying them down. The new flooring was paid for by the Appellants. 10

13. On May 26th, 1896, large crowds of people were proceeding in tramcars, carts and other vehicles as well as on foot across the Point Ellice Bridge leading from Victoria to Esquimalt to attend a review. There was one tramcar, with about 75 to 80 people upon it, which was close in front of the tramcar which was on the portion of the bridge which collapsed. The last-mentioned tramcar weighed about 10 tons and was about 30 feet over all. There were about 115 to 120 people upon the tramcar, a number which was greatly in excess of its carrying capacity. When the said tramcar was proceeding across the bridge and had got about half way over, one of the spans of the bridge gave way, precipitating the tramcar into the sea below. 20

14. The deceased, John Lang, who was in the said tramcar when the span of the bridge collapsed, was killed.

15. The Statement of Claim (which was delivered on June 16th, 1897) alleged:—

p. 2. (1) That although at the time when the said bridge was built it was without the limits of the City of Victoria, by letters patent issued on January 8th, 1891, and confirmed by an Act of the Legislature of the Province of British Columbia (ch. 63), the boundaries of the City of Victoria were extended so as to include the said bridge, and that the said bridge thereby became the property of the Appellants, and has ever since been under their sole control and management. 30

(2) That after the said bridge became subject to the control and management of the Appellants, the Appellants were bound and required so long as it was used as part of the highway to manage and keep it in repair and in a safe and fit condition for persons and vehicles lawfully passing over and along it; but the Appellants neglected to repair the said bridge, so that it became dangerous to passengers and vehicles.