

THE HAMBURG AMERICAN PACKET CO. *et al.*
v. THE KING.

Public work—Negligence—Navigable rivers—Repair of channel.

1902

*May 29

*Oct. 7.

JUDGMENT APPEALED FROM (7 Ex. C. R. 150) AFFIRMED.

APPEAL from the judgment of the Exchequer Court of Canada (1), dismissing the Petition of Right with costs.

The action was to recover damages for injuries to the SS. "Arabia" sustained through grounding upon an obstruction in the ship channel of the River St. Lawrence, near Cap à la Roche, between Montreal and Quebec. The channel had been deepened under the direction of the Department of Public Works and, after the work of deepening was finished and the plant removed, it was swept once. The contention of the suppliants was that the Crown was obliged thereafter to keep it clear of obstructions. This contention was not favoured by the Exchequer Court which held that the channel was not a public work after deepening was done and, if it was, there was no negligence proved to make the Crown liable under sec. 16, sub-sec. *c*, of the Exchequer Court Act. The Petition of Right was therefore dismissed and the suppliants appealed to the Supreme Court of Canada.

After hearing counsel for the parties the court reserved judgment and, on a subsequent day, dismissed the appeal with costs.

Appeal dismissed with costs.

C. Robinson K.C. and *Leighton McCarthy* for the appellants.

The Honourable The Minister of Justice and *Newcombe K.C.* for the respondent.

*PRESENT:—Sir Henry Strong C.J. and Taschereau, Sedgewick, Davies and Mills JJ.

(1) 7 Ex. C. R. 150.