

(b) The plaintiffs the land company and Orford are entitled to a declaration that, unless the deed to the land company from the Synod is a defence, the defendants have no defence against them.

(c) As the Court is not unanimous but equally divided in respect of the land company and Orford, this part of the case should be reheard before a Court of five Judges, and it is suggested that the Court should be composed of Judges other than those who heard the appeal in the first instance.

FIRST DIVISIONAL COURT.

MAY 8TH, 1919.

*HOLLAND v. TOWN OF WALKERVILLE.

Municipal Corporations—Negligence—Injury to Building in Town by Water Flowing into Alley—Cause of Flow—Construction of Pavements and of Buildings Adjoining Alley—Excavation Made in Soil of Street by Owner of Injured Building—Authority for.

Appeal by the plaintiff from the judgment of MIDDLETON, J., 15 O.W.N. 268.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

J. H. Rodd, for the appellant.

John Sale, for the defendants, respondents.

THE COURT dismissed the appeal with costs.