

FALCONBRIDGE, C.J.

AUGUST 21ST, 1902.

TRIAL.

SCOTT v. BARRON.

Private Way—Building—Mandatory Injunction.

Action tried at Sandwich brought by the plaintiff for an injunction restraining defendants from further proceeding with the erection of a building on a strip of land used as a highway, which the plaintiff claims as belonging to him. Plaintiff also seeks a mandatory order directing defendants to remove the building and all other obstructions placed on the land in question.

J. H. Rodd, Windsor, for plaintiff.

D. R. Davis and F. Davis, Amherstburg, for defendants.

FALCONBRIDGE, C.J., held, that the evidence does not establish that the strip of land in question is a public highway, and, moreover, the structure is no obstruction to the free passage of traffic along the said strip, since it is constructed over a depression which forms no part of the travelled road. The deed by the predecessors in title to the plaintiff, dated December 5th, 1873, granted the said strip "to be used as a carriage way by all the parties hereto forever."

Action dismissed without costs. Judgment for defendants for \$25 damages by reason of injunction. Thirty days' stay.

Fleming, Wigle, & Rodd, Windsor, solicitors for plaintiff.

Davis v. Davis, Amherstburg, solicitors for defendants.

FERGUSON, J.

AUGUST 22ND, 1902.

WEEKLY COURT.

LAW SOCIETY OF UPPER CANADA v. HUTCHISON.

Bankruptcy and Insolvency—Assignee—Further Directions.

Motion for further directions. Judgment for the plaintiffs in the original action against the defendants Rowsell & Hutchison for \$4,287.90. Plaintiff by original action granted subsequent costs.

Hamilton Cassels, K.C., for plaintiff.

George Bell, for defendant Clarkson.