

*Held*, that the plaintiff being the holder of the note in due course, and the alteration not being apparent he could avail himself of it as if it had not been altered under the proviso to s. 63 of the Bills of Exchange Act, 1890, 58 Vict., c. 33 (D.): *Reid v. Humphrey* (1881) 6 A.R. 403, distinguished.

*W. M. Douglas*, for the appeal. *E. G. Graham*, contra.

Boyd, C.] IN RE TOWNSHIP OF HAMILTON SCHOOL SECTION. [April 12.

*Public Schools—School section—Appeal from Township to County Council—“Alteration”*—R.S.O., 1897, c. 292, s. 39.

The amendment of the Public School Act made by 54 Vict., c. 55, s. 82 (R.S.O., 1897, c. 292, s. 39), has limited the right of appeal to the County Council against neglect or refusal of a township council to employ, with applications of trustees or ratepayers, for the formation, division, union or alteration of a school section or school sections. It is now only when the neglect or refusal is a neglect or refusal to “alter” the boundaries of the section or sections that there is such an appeal; and there is no appeal where the neglect or refusal is to form, divide, or unite.

An “alteration” means some change of the course of lines delimiting the territorial area of the section or sections, leaving it in other respects intact; and not a division of one section into two, which changes the thing itself.

*Clute*, Q.C., for the Township of Hamilton. *W. R. Riddell* for certain ratepayers.

Boyd, C., Ferguson, J.] HUNTER v. TOWN OF STRATHROY. [April 16.

*Costs—Summary disposal of, in Chambers—Jurisdiction—Absence of consent—Object of action not attained.*

The plaintiff claimed in this action damages for injury to person and property by the alleged negligence of the defendants in having a foul drain in front of his property, and an injunction. The defendants denied the plaintiff's allegations, and alleged that if the plaintiff had suffered any injury it was by his own negligence. Before trial of the action, the defendants opened and inspected the drain and did some work upon it. The plaintiff professing to regard this as a compliance with his demand, asked the defendants to consent to the costs being disposed of by order in Chambers, to which the defendants answered that the work was being done in the ordinary course of municipal work, without the intention of admitting any liability, and refused to consent. The plaintiff moved in Chambers, without consent and against the objection of the defendants, and obtained an order for payment by the defendants of the costs of the action.

*Held*, that under these circumstances, there was no jurisdiction to summarily dispose of the costs in Chambers, the object of the action not having been substantially attained. *Knickerbocker v. Rats*, 16 P.R. 191, distinguished.

*Osler*, Q.C., and *D. L. McCarthy*, for defendants. *W. H. Blake*, for plaintiff.