

THE MASTER.—The questions were not answered on advice of defendant's counsel, who argued that they were irrelevant, and that defendant could not be compelled to state what he had told his wife. On the argument I held that the questions were relevant and should be answered. The motion was reserved to consider the other ground. . . .

I do not think the objection can be sustained. No doubt, a husband or wife cannot be made to disclose any communication made during marriage by the one to the other: R. S. O. 1897 ch. 73, sec. 8. That, however, is a very different thing from saying that a husband or wife cannot be compelled to disclose any statement made by the witness to his or her partner. Such a principle would in the present case be an absolute bar to the action, where the whole alleged cause of action is founded on statements made by defendant to his wife.

Whether such an extension would be desirable is not a matter for present consideration. See *Connolly v. Murrell*, 14 P. R. 187, 270. . . .

The order will go as asked, with costs to plaintiff in the cause.

BOYD, C.

JANUARY 13TH, 1905.

WEEKLY COURT.

RE DUNN AND CITY OF STRATFORD.

Municipal Corporation—Alteration in Grade of Sidewalk—Injury to Adjoining Land—Absence of By-law—Remedy—Arbitration—Sale of Land after Injury—Right of Vendor to Compensation.

Appeal by city corporation from award of arbitrator allowing claimant \$80 damages for injury to his property by the raising of the level of a sidewalk.

R. S. Robertson, Stratford, for appellants.

E. Sydney Smith, K.C., for claimant.

BOYD, C.—When a municipality undertakes to raise the level of a street and does so to the detriment of adjoining land, that is a matter for which compensation may be obtained by the owner whose land is injuriously affected. Whether done under by-law or by the inherent authority of the body as conservator of roads, the like liability arises, not by way of action, but under the method of arbitration: *Pratt v. Town of Stratford*, 16 A. R. 5.

The finding of the learned arbitrator "that there was not imposed upon this corporation any obligation or necessity