

Rose, 30th April, 1890, per Boyd, C.; and *Ridout on Patents*, p. 36. . . . The best evidence of the improvements in plaintiff's invention is that it has gone into general use, and this turns the scale in his favour: *Dion v. Dupuis*, Q. R. 12 S. C. R. 473; *Smith v. Dental, &c., Co.*, 93 U. S. R. 495. Judgment for plaintiff with reference to Master in Ordinary. Costs to plaintiff on High Court scale.

Mills, Raney, Anderson, & Hales, Toronto, solicitors for plaintiff.

Denton, Dunn, & Boulton, Toronto, solicitors for defendants.

MARCH 12TH, 1902.

DIVISIONAL COURT.

RE DOOLITTLE v. ELECTRICAL MAINTENANCE  
AND CONSTRUCTION CO.

*Division Courts — Prohibition — Jurisdiction — Cause of Action —  
Whole Cause must Arise within Limits of Court.*

Appeal by defendants from order of MEREDITH, C.J., in Chambers, refusing a motion for prohibition to the 2nd Division Court in the District of Muskoka, which was made upon the ground that the whole cause of action did not arise, nor did the defendants reside within the jurisdiction of the Division Court. The action was for damages to the plaintiff's land by flooding. The land is in the jurisdiction of the Division Court, and the plaintiff resides therein. The evidence shewed that the flooding was caused by the raising of the waters of the river Severn, and that this was caused by the defendants' dam, which was not within the jurisdiction, and which they were authorized by 62 Vict. ch. 64 to erect.

F. A. Anglin and R. D. Gunn, Orillia, for defendants.

F. G. Evans, Orillia, for plaintiff.

The judgment of the Court (FALCONBRIDGE, C.J., STREET, J., BRITTON, J.) was delivered by

STREET, J.—To sustain the jurisdiction of the Division Court, it must be shewn that the whole cause of action arose within its limits. To succeed in the action plaintiff must shew damage, and that it was sustained from the wrongful act of defendant. The erection of the dam was the act of the defendant, and the damage to the plaintiff was consequential upon that act. The plaintiff must plead not only damage, but the manner in which defendant is charged with having caused it, and then defendant has a right to traverse