

THE REFEREE, in a written judgment, said that, under the provisions of the statute, an appeal from the judgment of a Judge shall not lie unless and until leave has been given by the Referee. No limitation is contained as to the granting of leave; but (the Referee said), after very careful consideration, and having in view the reasons advanced for the creation by the Legislature of this new right of appeal, he had come to the conclusion that leave to appeal should be given only where some question of law is involved, and that he should not assume to sit in appeal from a Judge where there was no question involved other than one of fact. It was represented to those in authority that drainage engineers, particularly in certain localities of the Province, were embarrassed by reason of the fact that different County Court Judges, sometimes in adjacent counties, held different opinions as to the legal effect of certain of the provisions of the Ditches and Watercourses Act, and the creation of the new right of appeal was with the object of bringing about a harmony of opinion, where, up to the then present, differences existed. It would be obviously injudicious to attempt to pass in appeal upon the physical questions arising out of the many schemes under the Act throughout the Province; and, since in this particular case no question of law was involved, leave to appeal should not be given.

There should be no costs, as the principle upon which he (the Referee) proposed to proceed had not until now been made public.