

plaintiff's lands were open, the learned Judge could not say. The point was not raised on the record, and had not been discussed before him.

Upon these facts, he found it unnecessary to discuss the numerous and interesting cases which were cited and commented on by counsel. He had examined the cases; but the matter appeared to him to turn, not on any fine legal distinction, but on the plain law that the defendants had caused the plaintiff damage by unlawful interference with a natural watercourse. The fact that such interference resulted from the drainage of the surface-water of the defendants' lands seemed to him to make no difference. If the defendants had not interfered, that surface-water would have drained harmlessly into Lake Ontario, and not into the plaintiff's cellar.

The evidence seemed to make it plain that a drain from the plaintiff's cellar, leading into the tile-drain at the back end of her lot, would obviate all difficulty.

Counsel for the defendants undertaking, at their expense, properly to construct and connect such a drain, the learned Judge assesses the plaintiff's damages down to date at \$150.

Leave is reserved to the plaintiff to apply in this action for further relief, if the drain does not cure the difficulty.

The plaintiff should have costs on the County Court scale without set-off.

ROSE, J.

MAY 13TH, 1918.

WITHERSPOON v. TOWNSHIP OF EAST WILLIAMS.

Municipal Corporations—Contract—Action for Balance of Price of Bridge Built by Plaintiff under Sealed Agreement with Township Corporation—Completion of Work according to Agreement—Executed Contract—Payment of Part of Price—Necessity for By-law—Municipal Act, sec. 249—Use of Bridge by Municipality—Right of Action Defeated by Absence of By-law.

Action to recover \$2,500, the balance of the price of a bridge erected by the plaintiff for the defendants.

The action was tried without a jury at London.

T. G. Meredith, K.C., for the plaintiff.

J. M. McEvoy and C. St. Clair Leitch, for the defendants.