

THE
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TORONTO, JULY 30, 1914.

No. 10.

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

JUNE 15TH, 1914.

BOLTON v. SMITH.

6 O. W. N. 531.

Way—Right of Way over Lane—Acquiring by Prescription.

SUP. CT. ONT. (2nd App. Div.) *held*, that using a lane for a short time on isolated occasions for various purposes, such as bringing in coal, taking out ashes and garbage, etc., was not sufficient to establish a right of way by prescription.

Appeal by defendants from a judgment of HON. MR. JUSTICE LATCHFORD, in favour of plaintiff.

The appeal to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE CLUTE, HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND and HON. MR. JUSTICE LEITCH.

J. E. Jones, for appellant (defendant).

William Proudfoot, K.C., and Mr. Grant, for respondent.

HON. MR. JUSTICE LEITCH :—The plaintiff is the owner of part of park lot, number 19, in the first concession from the bay, now known as lot number 202 on Bathurst street, having a frontage of 80 ft. on Bathurst street by a depth of 108 feet.

The defendants are owners of lot number 204 on Bathurst street, having a frontage of 20 ft. 8 in., adjoining a lot immediately to the north of lot 202.

The plaintiff claims that not only the westerly ten feet of his own lot 202, but also the defendants' lot 204, and lot