

giving the signal without seeing that the respondent had reached the top of the car.

Upon that finding we agree that the respondent was entitled to recover, for the reasons stated by my learned brother.

The appeal is dismissed with costs.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE HODGINS agreed.

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SUPREME COURT OF ONTARIO.

1ST APPELLATE DIVISION.

JUNE 26TH, 1913.

RE BRIGHT AND TOWNSHIP OF SARNIA

RE WILSON AND TOWNSHIP OF SARNIA

4 O. W. N. 1535.

*Water and Watercourses—Ditches and Watercourses Act—Appeal from Drainage Referee—Report of Engineer—Alleged not Independent Opinion—Fees of Solicitors and Engineers—Charge on Work—Refusal to Interfere with.*

SUP. CT. ONT. (1st App. Div.) dismissed appeal by plaintiffs from an order of the Drainage Referee dismissing plaintiff's application to set aside a report of an engineer upon a drainage scheme for Cow Creek drain in the respondent township.

Consolidated appeals by Robert Bright, James Bright, Thomas Wilson and Fred. Wilson, from an order of the Drainage Referee, dated 3rd March, 1913, dismissing application by the appellants to set aside the report, plans and specifications of A. S. Code, O.L.S., and C.E., and provisional by-law No. 10 D. of the corporation of the township of Sarnia, intituled "A by-law to provide for the improvement of the Cow Creek drain in the township of Sarnia."

The appeal to the Supreme Court of Ontario (First Appellate Division) was heard by HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE HODGINS.

R. I. Towers, for appellant.

T. G. Meredith, K.C., and A. I. McKinley, for respondent.