
Province of Ontario.

HIGH COURT OF JUSTICE.

Magee, Riddell, Latchford, JJ.]

[June 2.]

WOODS v. CANADIAN PACIFIC RY. CO.*Railway—Construction of drain—Right of way—Flooding adjoining lands.*

Appeal from judgment of MACMAHON, J.

The statement of claim was modelled upon the Railway Act, R.S.C. 1906, c. 37, s. 250. The judgment of the trial judge was based upon his reading of the above Act and he held that the plaintiff had no cause of action.

Held, that s. 250 gave the plaintiff no rights in this action. Sub-section 1 refers only to the future construction of railways, and not to those already constructed. It imposes a burden for which these companies were previously free unless where they had voluntarily assumed it as a matter of contract or otherwise. It has no retrospective effect. Appeal allowed and action dismissed with costs.

C. A. Moss, for plaintiff. W. L. Scott, for defendant.

Boyd, C., Magee, J., Latchford, J.]

[June 2.]

THOMPSON v. COURT HARMONY OF ANCIENT ORDER OF FORESTERS.*Benefit Society—Sickness—Certificate of medical officer—Domestic tribunal—Interference with by court—No jurisdiction to interfere with the decision of a benefit society unless the conclusion has been the result of corrupt motives.*

Appeal by defendants from judge of the County Court of York in favour of plaintiff in an action by a member of the defendant court for \$168 for sick benefit. The medical officer of the defendant society certified that the plaintiff's illness was due to alcoholism which under the defendants' rules deprived the plaintiff of any benefit. Another physician called in by the plaintiff certified that the illness was not due to alcoholism, but to something else; the defendants, however, acted on the certificate of their own medical officer. The County Court judge whilst