

Correspondence.

DRAINAGE WORKS AND THE SUPREME COURT.

To the Editor, CANADA LAW JOURNAL.

SIR.—A criticism in a recent number of the *Toronto Globe* of the decision of the Supreme Court of Canada in the case of *The Sutherland-Innes Co. v Township of Romney*, 30 S.C.R. 495, if it reflects anything more than the feelings of a disappointed litigant goes some distance in shewing that there is still some need of higher appellate tribunals to protect individual rights against the arbitrary views of municipal authorities, impressed with their own importance and the infallibility of all courts and judges residing in the immediate vicinity of the St. Clair marshes. The judgment is first quarrelled with as having been rendered by a *French* judge, who consequently is assumed to know nothing of what he is talking about. But this objection is quite as good as the rest of the complaint as will appear by referring to the official report of the judgment, carefully reasoned out by Mr. Justice Gwynne, a native of Dublin, for many years an ornament of the Upper Canada Bar, who sat for many years as a judge of its Court of Common Pleas and, after refusing appointment as a permanent judge of the Ontario Court of Appeal, was elevated to the Supreme Court Bench as an expert in the laws of that province. The critic must be innocent who supposes that any one is likely to believe his proposition that an appeal court judge delivering the unanimous decision of the bench is giving merely a personal opinion on the matter. As to the quorum constituting the court, it may be news to this critic that no hearing could have taken place before four judges had not the parties themselves specially consented that their differences should be so disposed of; they, in fact constituted their own tribunal. Why should anyone complain?

It is true that, in some respects, this decision, in its result reversing the judgment of the court below as reported, (26 O.A.R. 495,) rather gives the impression that the arguments in the Ontario Court of Appeal were quite different in their nature, and much less exhaustive than those before the Supreme Court of Canada, and it is quite possible that, looked at from the new points of view thus presented, the Ontario court might have come to different conclusions. Now, as to the matter of the judgment. In about 38