

Province of Ontario.

COURT OF APPEAL.

From STREET, J.]

[Jan. 12.

BEATON v. SPRINGER.

Fire—Negligence—Clearing land.

In the month of August the defendant set out fire on his own land for the purpose of clearing it. This fire continued to burn till October, when in consequence of a very high wind sparks were carried to the plaintiff's land, and set fire to some ties and posts stored thereon.

Held, that the question of the defendant's liability and negligence should be determined, having regard to the circumstances existing in October, and not to those existing in August.

Judgment of STREET, J., reversed.

George Lynch-Staunton, for the appellant.

J. W. Nesbitt, Q.C., and *W. T. Evans*, for the respondent.

From FERGUSON, J.]

[May 5.

WALKER v. ALLEN.

Devolution of Estates Act—Children of deceased brother or sister—R.S.O., c. 108, s. 6.

Under s. 6 of the Devolution of Estates Act, R.S.O., c. 108, the children of a deceased brother or sister of the intestate, are entitled to share per stirpes.

Judgment of FERGUSON, J., reversed.

R. A. Grant and *J. N. Fish*, for the appellants.

W. L. Walsh, for the administrators.

W. A. Bell, for the respondents.

From Drainage Referee.]

[May 11.

SEYMOUR v. MAIDSTONE.

Ditches and Watercourses Act—Municipal corporations—Damages—R.S.O. c. 220.

A township municipality, within the limits of which a ditch is constructed under the provisions of the Ditches and Watercourses Act, in accordance with the award of the township engineer, made in assumed compliance with the requisition of the ratepayers interested, is not liable for damages caused to a resident of the township by the construction of the ditch, even though the requisition be in fact defective.

Judgment of Mr. Britton, Drainage Referee, affirmed.

F. E. Hodgins, for the appellant.

J. B. Rankin, for the respondents.