evidence that no line fence had been established between the parties, and that such described fence, or protection to his crops, which the defendant had constructed in no sense complied with the township by-law regulating barbed wire fences.

DARTNELL, J.J.: As far as I know, the only case in our own courts in which barbed wire fences have received judicial consideration is that of *Hillyard* v. *Grand Trunk Railway*, 8 O.R. 583, in which it was held that, in the absence of municipal regulation, such a fence was not a nuisance.

Since the judgment in *Hillyard* v. *Grand Trunk Railway Co.* (1885), the necessity, and therefore the use, of barbed wire as a mode of fencing has largely increased; and inasmuch as under the Municipal Act authority is given, in cases of cities and towns, to altogether prohibit, and in other municipalities to regulate it, its use has thus received legislative sanction.

The defendant had a perfect right to protect his crops against animals in his neighbour's fields. But the maxim, *sic utere tuo ut alienum non lædas*, surely applies.

In *Firth* v. *Bowling Iron Company*, 3 C.P.D. 254, it was held that where an obligation exists to fence, the fencing must be done in such a way as not to cause injury, not only while the fence is efficient, but from the natural effects of decay. In that case there was what may be termed *apathetic* negligence, for which the defendants were held liable. This defendant, by the gross carelessness evidenced in the construction and maintenance of a protection for his crops, has been guilty of *active* negligence, and ought to suffer in damages for the injury the plaintiff has sustained.

"A person who brings on his land any thing which, if it should escape, may damage his neighbour does so at his peril, negligence or not being quite immaterial": *Rylands* v. *Fletcher*, L.R. 3 H.L. 330; *Shirley's L.C.*, 104.

Judgment for plaintiff for $60.

Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Full Court.] [March 4.

REGINA *v.* HAZEN.

Summary conviction—Information—Two offences—Liquor License Act—R.S.O., c. 194, s. 105—P.S.C., c. 178, ss. 26, 28, 80, 87, 88—Defect in substance—Objection not taken before magistrate—Quashing conviction—Costs.

An information laid before a police magistrate charged that the defendant did on the 30th and 31st days of July, 1892, sell intoxicating liquor without the license therefor by law required. Upon the hearing evidence was adduced