

The appeal was heard by CLUTE, RIDDELL, and KELLY, JJ.
O. L. Lewis, K.C., and W. Stanworth, for the defendants.
G. F. Shepley, K.C., and J. G. Kerr, K.C., for the plaintiffs.

KELLY, J.:—There is, to my mind, a distinction to be drawn between those cases where lands border upon navigable waters, the boundary not being otherwise defined, and the present case, where the boundary nearest to the water is "clearly and rigidly fixed" by the Crown grant, the description in which is by metes and bounds.

In the present case, too, there is the further fact that the land so patented was separated from the water, not only by the Talbot Road, but also by other lands between that road and the water's edge.

The grantee could not have been said to be a riparian proprietor, and his rights and liabilities differed in that respect from those of an owner whose lands border on navigable waters.

After a careful perusal of the evidence and numerous authorities, I am of opinion that the judgment of the learned Chief Justice of the King's Bench is correct and it should not be disturbed.

CLUTE, J., and RIDDELL, J., concurred in dismissing the appeal with costs, giving written reasons, in which the facts and law in the case are discussed with great fulness.

DIVISIONAL COURT.

DECEMBER 24TH, 1912.

ERRIKKILA v. McGOVERN.

Assessment and Taxes—Tax Sale—Action to Set Aside—10 Educ. VII. ch. 124, sec. 4—Irregular Sale—Saved by Legislation—Assessment Act of 1904, sec. 173—Computation of Time—Costs.

Appeal by the defendant from the judgment of LENNOX, J., noted ante 195, where the facts are stated.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

J. Bicknell, K.C., for the defendant.

Glyn Osler, for the plaintiff.