

**The**  
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No. 45.

HIGH COURT OF JUSTICE.

FALCONBRIDGE, C.J.K.B.,

JULY 12TH, 1912.

\*VOLCANIC OIL AND GAS CO. v. CHAPLIN.

*Water and Watercourses—Crown Grant of Land Bounded by Highway Running near Bank of Lake—Encroachment of Water upon Highway and Lands beyond—Right of Grantee to Lands Encroached upon by Water—Crown Assuming to Make Lease of same Lands—Trespass by Lessee—Action—Parties—Attorney-General—Injunction—Damages.*

Action by the Volcanic Oil and Gas Company, John G. Carr, and the Union Natural Gas Company of Canada Limited, plaintiffs, against Chaplin and Curry, defendants, for a declaration of the plaintiffs' right of ownership of certain lands, and for an injunction and damages in respect of trespasses alleged to have been committed by the defendants thereon.

G. F. Shepley, K.C., and J. G. Kerr, for the plaintiffs.

O. L. Lewis, K.C., for the defendant Curry.

W. Stanworth, for the defendant Chaplin.

FALCONBRIDGE, C.J.:—The plaintiff Carr is the owner and occupant of the westerly half of lot 178, Talbot road survey, in the township of Romney . . . granted by the Crown by patent dated the 29th January, 1825, to Carr's predecessor. . . .

The plaintiffs allege that the original Talbot road, which formed the south-westerly boundary of the lands included in the patent, ran near the bank of Lake Erie, which at this point is many feet above the beach, and rises perpendicularly therefrom, having a clay front facing the waters of the lakes. The plaintiffs further allege that along the shore of Lake Erie in that locality the waters of the lake have been encroaching upon the lands,

\*To be reported in the Ontario Law Reports.