

HIGH COURT DIVISION.

BOYD, C. FEBRUARY 14TH, 1914.

*RICKEY v. CITY OF TORONTO.

*SCHOFIELD-HOLDEN MACHINE CO. v. CITY OF TORONTO.

Water and Watercourses—Lands Fronting on Ashbridge's Bay—Legal Right to Access by Water—"Riparian Rights"—Navigable Waters—Toronto Harbour—Title to Lands—Broken Front—History of Harbour—Statutes—British North America Act—Dominion Property—1 Geo. V. ch. 119, sec. 4 (O.)—Toronto Harbour Commissioners—1 & 2 Geo. V. ch. 26 (D.)—Boundary between Broken Front Lots and Marsh—Building to Water's Edge—Encroachment on Crown Property—Nuisance—Pollution of Water and Air—Injury to Individuals—Public Rights—Attorney-General—Injury to Business—City Corporation—Delay in Putting Street in Order after Laying of New Sewers—Reference—Damages—Costs.

Actions against the Corporation of the City of Toronto and the Toronto Harbour Commissioners for a declaration that the waters of Ashbridge's Bay are navigable waters, and that the plaintiffs are entitled to riparian rights as owners of land bordering on the bay, that the defendants the Corporation of the City of Toronto had created a nuisance in the bay, for an injunction, and other relief.

H. E. Irwin, K.C., and W. E. Raney, K.C., for the plaintiffs.

G. R. Geary, K.C., and C. M. Colquhoun, for the defendants the Corporation of the City of Toronto.

A. C. McMaster, for the defendants the Toronto Harbour Commissioners.

BOYD, C.:—These two actions were begun at the same time (the 30th November, 1912), and were tried together. They are brought mainly to vindicate the claim to "riparian rights" on Ashbridge's Bay as an arm of Lake Ontario and part of the harbour of Ontario.

The same question was litigated and an action begun on the 11th November, 1903, in the conduct which the then owners of

*To be reported in the Ontario Law Reports.