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No. 5.

APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

APRIL 2ND, 1918.

SULLIVAN v. CANADIAN NORTHERN R.W. CO. AND
CAMPBELLFORD LAKE ONTARIO AND WESTERN
R.W. CO.

*Railway—Embankment—Bridge—Injury to Property below by
Flooding—Evidence—Trial—Jury—Statements of Counsel—
Prejudice—Damages.*

Appeal by the defendants from the judgment of the County Court of the County of Hastings in favour of the plaintiff for the recovery of \$175 damages with costs.

The appeal was heard by MACLAREN and HODGINS, J.J.A., LATCHFORD and SUTHERLAND, J.J., and FERGUSON, J.A.
Angus MacMurchy, K.C., for the appellants.
E. J. Butler, for the plaintiff, respondent.

The judgment of the Court was read by LATCHFORD, J., who said that the plaintiff's claim was for damages resulting during the winter of 1916 from the flooding of a house which he then occupied north of the defendants' railway embankment, and west of the mouth of the Moira river, in the city of Belleville, and from the flooding of a slip, south of the railways, in which lay two boats owned by the plaintiff, and the freezing of the flood-water around, in, and over his boats.

The defendants admitted liability to the extent of \$25 for the inconvenience occasioned to the plaintiff by the flooding of the house north of the embankment which he occupied at the time.