

pellant Gosfield North \$11,000 odd. By no ingenuity could the pecuniary advantage, direct or indirect, be brought up to \$50,000—and no other kind of advantage was suggested. Such a scheme should never be approved of—it would be throwing away money. It was not as though those who were injured had no remedy; the Courts were open, and full compensation might be had from any offending municipality or person. It was never intended that this Act should be made a means of throwing away money: *McGillivray v. Township of Lochiel* (1904), 8 O.L.R. 446, 453; *Gosfield South v. Mersea* (1895), 1 *Clarke & Scully's Drainage Cases* 268, 270, per Britton, Drainage Referee, whose decision should be approved and followed.

Re Township of Orford and Township of Aldborough (1912), 27 O.L.R. 107, and Re Township of Huntley and Township of March (1909), 1 O.W.N. 190, 14 O.W.R. 1033, were also referred to.

On an appeal to the Drainage Referee, he must consider the objections to the scheme advanced by the appellant, and no stronger ground could be suggested than that the scheme would cost more than it was worth.

The appeals should be allowed, and the appellants should have their costs throughout.

FALCONBRIDGE, C.J.K.B., and LATCHFORD, J., concurred.

KELLY, J., also concurred, for reasons to be stated in writing.

Appeals allowed.

OCTOBER 4TH, 1915.

DONOVAN v. WHITESIDES.

Sale of Goods—Condition as to Quality—Non-fulfilment—Rescission—Return of Money Paid and Promissory Notes Given—Damages—Return of Goods.

Appeal by the defendants from the judgment of SUTHERLAND, J., 8 O.W.N. 483.

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

H. C. Macdonald, for the appellants.

J. M. Langstaff, for the plaintiff, respondent.

THE COURT dismissed the appeal with costs.