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HON. MR. JUSTICE KELLY.

FEBRUARY 12TH, 1913.

NILES v. GRAND TRUNK RW CO.

4 O. W. N. 820.

Water and Watercourses—Flooding of Plaintiff's Lands—Unnatural Collection of Surface Water—Defendant Railway Company—Water from Locomotives—Claim to be Acting under Statutory Powers—Municipal Corporation—Liability of—Injunction—Stay.

KELLY, J., held, that the powers and privileges given defendant, the Grand Trunk R. Co., by statute, did not absolve it from its common law liability to make compensation to plaintiff, the owner of lands adjoining its lands, for an unnatural collection of surface water and other water upon its lands, and the discharge thereof upon the lands of the plaintiff, to their damage.

Rylands v. Fletcher, 3 H. L. C. 330, followed.

Judgment for plaintiff for \$1,525 and costs, and an injunction. Judgment stayed for four months, to enable defendant to devise a mode of preventing future flooding.

Action for damages sustained by plaintiff through the flooding of his lands by reasons of defendants' wrongful acts upon the neighbouring lands, and for an injunction.

E. G. Porter, K.C., and W. Carnew, for the plaintiff.

D. L. McCarthy, K.C., and W. E. Foster, for the defendant.

HON. MR. JUSTICE KELLY:—Defendants own and occupy for their yards and tracks a large parcel of land in the township of Thurlow, a short distance to the east of their passenger station in the city of Belleville. Along the southerly limit of these lands runs a travelled road leading into Belleville. Immediately to the north of this road, and parallel thereto, are located several railway tracks, including the main line tracks of defendants' road. To the north of the tracks are located defendants' roundhouse for locomotives, stand-pipes for the supply of water, and ashpits used in