

Act, in any proceedings for the alteration of the section, these proceedings must be based upon a petition of five ratepayers of this municipality, though not necessarily of ratepayers in the territory itself.

Judgment of STREET, J., affirmed.

*Johnston, Q.C., and A. H. Macdonald, Q.C., for appellants. W. R. Riddell, Q.C., and Hugh Guthrie for respondents.*

From Ferguson, J.]

[Nov. 11.

SUTHERLAND INNES COMPANY v. TOWNSHIP OF ROMNEY.

*Drainage—Debentures—Maintenance—Embanking work—Registration of By-laws.*

Sec. 83 of the Drainage Act, R.S.O., c. 226, directing that the time for payment of debentures issued for the cost of extending, improving, or altering a drainage work, and the municipality has the same power to issue debentures as in the case of an original drainage work.

Because in the course of the construction of a drainage work banks are formed with the spoil cast from the dredge, the work is not one within sub-s. 2 of s. 3 of the Drainage Act, R.S.O., c. 226; that sub-s. relates to the reclamation of wet or submerged lands.

*Semle:* The provisions of the Municipal Act as to the registration of by-laws for contracting debts apply to by-laws for the issue of debentures for drainage works, and when such by laws have been registered in accordance with the provisions of the Act they cannot be set aside even if originally ultra vires.

Judgment of FERGUSON, J., (34 C.L.J. 695) affirmed.

*Atkinson, Q.C., for appellants. J. B. Rankin, Q.C., for respondents.*

From Ferguson, J.] ATKINSON v. CITY OF CHATHAM.

[Nov. 11.

*Municipal corporations—Highway—Obstruction—Telephone pole—Indemnity.*

A telephone pole placed in the travelled portion of a highway is such an obstruction thereto as to constitute want of repair within the meaning of the Municipal Act, and when the municipal corporation having jurisdiction over the highway in question take no step for several years to compel the removal of the pole they are liable in damages for an accident caused by it.

Judgment of FERGUSON, J. (29 O.R. 517; 34 C.L.J. 565) affirmed.

But held that the municipal corporation has a right of indemnity against the telephone company erecting the pole notwithstanding their knowledge of and assent to the erection of the pole.

Judgment of FERGUSON, J., (29 O.R. 518) reversed.

*Aylesworth, Q.C., and Douglas, Q.C., for City of Chatham. M. Wilson, Q.C., for Bell Telephone Company. Atkinson, Q.C., for plaintiffs.*