

for making the order appealed against, and the authorities referred to by him, I think the order should stand. I can add nothing of value to what has been so well stated by the learned Master in his judgment.

The appeal is, therefore, dismissed with costs.

HON. SIR G. FALCONBRIDGE, C.J.K.B. SEPT. 27TH, 1912.

ARMSTRONG v. BARRIE.

4 O. W. N. 64.

Negligence — Highway — Non-repair — Person Fell in Hole in Highway—Evidence.

Plaintiff brought action to recover damages for injuries sustained by falling into a hole in a highway.

FALCONBRIDGE, C.J.K.B., *held*, that plaintiff was in error as to the manner in which he met with the accident. Action dismissed with costs, if exacted.

Tried at Barrie and Toronto.

A. E. H. Creswicke, K.C., for the plaintiff.

J. H. Moss, K.C., for the defendants.

HON. SIR GLENHOLME FALCONBRIDGE, -C.J.K.B.:—
Even if I were to ignore the testimony of A. E. Patterson, who is said to have a contingent interest in the result of this action, the evidence adduced by defendants is overwhelming as to the condition of the area and sidewalk.

Plaintiff must be quite in error as to the manner in which he met with the accident.

The action will be dismissed with costs, if exacted.

Twenty days' stay.