

LANG v. WILLIAMS—DIVISIONAL COURT—OCT. 28.

Damages—Reference—Report—Appeal—Further Directions—Costs.—An appeal by the plaintiffs from the order of FALCONBRIDGE, C.J.K.B., 1 O. W. N. 1052, dismissing an appeal from the report of an Official Referee. THE COURT (MEREDITH, C.J.C.P., SUTHERLAND and MIDDLETON, JJ.), allowed the appeal in part, and varied the report of the Referee by deducting from the amount of damages allowed for the Glasgow shipment of 4,029 barrels, 25 cents per barrel, amounting to \$1,007.25, and by reducing the damages allowed for the New York shipment to \$2,025.50. In other respects appeal dismissed. No costs of appeal. By consent of counsel, judgment on further directions for the plaintiffs for \$2,607 and for the defendants on their counterclaim for \$11,403.25. No costs of action or counterclaim. H. T. Beck, for the plaintiffs. J. A. Worrell, K.C., for the defendants.

STILWELL v. TOWNSHIP OF HOUGHTON—BRITTON, J.—OCT. 29.

Highway—Nonrepair—Injury to Traveller—Negligence—Condition of Township Road—Cause of Injury.—Action for damages for injury to the plaintiff's person and property, caused, as he alleged, by reason of a highway in the township of Houghton being out of repair. On the 12th January, 1910, about dusk, the plaintiff was upon a load of hay, which was being drawn by a team of horses upon a pair of bob-sleighs. The horses were driven by one Vanderberg. When the team reached a point in the highway where there was a ridge running diagonally across the road, the front "bob" crossed the ridge, but the rear one, upon striking the ridge, slewed or slid to the west. The plaintiff's allegation was that the rear "bob" slid to such an extent that the west runner went off the travelled part of the road and upon the grade on the west side, and, by reason of this steep descent on the road, the plaintiff was thrown from the load and injured. The complaint was that the road was improperly constructed, in that the travelled portion was too narrow, and on each side was a deep ditch, not guarded on the west side. The learned Judge finds, upon the evidence, that the load was upset upon the travelled road, and that the rear sleigh did not go so far to the west as to reach the grade, which, had it gone that far, would have caused it to overturn. He says that there is nothing unreasonable, in the circumstances, in believing that the load upset from no more apparent cause than the