

multitude of irregularities which rendered the defendants' whole procedure illegal as an attempt at compliance with the Local Improvement Act. The plaintiff swore that he had already suffered damage to the extent of at least \$100, and no one had satisfactorily contradicted him. The damages should be assessed at that amount. Judgment accordingly with costs. R. L. McKinnon and J. R. Howitt, for the plaintiff. N. Jeffrey, for the defendants.

CLINE V. CLINE—FALCONBRIDGE, C.J.K.B., IN CHAMBERS—
APRIL 10.

Partition—Nature of Estate of Parties Interested in Land—Tenancy in Common or by Entireties—Binding Effect of Judicial Decision.—Appeal by the defendant from an order of the Local Judge at Simcoe directing partition or sale of lands in the county of Norfolk. The grounds of the appeal were: (1) that the lands were held by the plaintiff and defendant as an estate or tenancy by entireties, and were incapable of severance or sale; (2) that the material filed was insufficient, and there was no jurisdiction to make an order. The learned Chief Justice, in a written judgment, said that the defendant's counsel asked to have it declared that *Re Wilson and Toronto Incandescent Light Co. (1891)*, 20 O.R. 397, was wrongly decided; but a Judge in Chambers had no power to do that; nor, if there was power, would it be exercised in this case. The judgment in the case referred to was pronounced 26 years ago, and it had, no doubt, been acted on in many instances. The Chief Justice added that he had a good deal of respect for the opinion of the Judge who pronounced it. Appeal dismissed with costs. J. E. Jones, for the defendant. A. W. Langmuir, for the plaintiff.