

was involved on the question of deviation, and further held that there had been a substantial compliance with the statutory provisions, and that the plaintiffs were entitled to judgment.

The case, as to both questions, seems to have turned largely upon its own special circumstances. The question as to deviation was whether the manner of dealing with the road in its inception was such as to remove it from the joint jurisdiction of the two townships and make it a township road, subject to the sole jurisdiction of East Flamborough.

I am unable to say that there is anything in the circumstances to justify me in treating the case as so exceptional as to warrant a further appeal upon the question of compliance with the statutory preliminaries necessary to entitle the plaintiffs to maintain the action.

In view, however, of the consideration that the determination that the road is part of the town line between the two townships draws with it the further consequence of imposing upon the defendants a permanent liability or obligation in respect of its future maintenance and repair, I give the defendants, if they desire it, leave to appeal upon the sole question whether the road is a deviation of a town line road within the meaning of the Municipal Act.

The defendants to elect within two weeks. If they decide to appeal, the costs will be in the appeal. Otherwise the application is dismissed with costs.

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MAY 31ST, 1911.

DOMINION IMPROVEMENT AND DEVELOPMENT CO. v.  
LALLY.

*Limitation of Actions—Real Property Limitation Act—Occupation of Land by Permission of True Owner—Payment of Taxes—Evidence—Estoppel.*

Appeal by the defendant from the judgment of BOYD, C., ante 155.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

C. A. Moss, and H. A. Lavell, for the defendant.

G. H. Watson, K.C., and C. J. Foy, for the plaintiffs.