

The
Ontario Weekly Notes

Vol. IV. TORONTO, NOVEMBER 1, 1912. No. 7

HIGH COURT OF JUSTICE.

DIVISIONAL COURT.

OCTOBER 10TH, 1912.

MCGUIRE v. TOWNSHIP OF BRIGHTON.

*Municipal Corporations — Drainage — Natural Watercourse —
Drainage of Surface-water into — Exceeding Capacity of
Watercourse — Overflow — Injury to Land — Liability —
Damages.*

Appeal by the defendants, the Corporation of the Township of Brighton, from the judgment of the Junior Judge of the County Court of the United Counties of Northumberland and Durham, awarding the plaintiffs, Archibald McGuire, Frank McGuire, and Patrick McGuire, the sum of \$350 damages in perpetuity, in lieu of an injunction, in an action to restrain the defendants from bringing on the plaintiffs' land a greater volume of water than naturally came thereon, which, as the plaintiffs alleged, had been done by a drain or ditch constructed by the defendants and a double culvert crossing the road opposite the plaintiffs' farm.

The appeal was heard by MULOCK, C.J.Ex.L., CLUTE and RIDDELL, JJ., on the 9th and 10th October, 1912.

E. G. Porter, K.C., for the defendants.

W. F. Kerr, for the plaintiffs.

At the conclusion of the argument, the judgment of the Court was delivered by MULOCK, C.J.:—Mr. Porter relies on what is, we think a correct statement of the law, the proposition of law that the defendants have the right to drain surface-water into the creek in question, it being a natural watercourse, provided of water than, according to its natural capacity, it can take care