

[*Barwick v. English Joint Stock Bank*, L. R. 2 Ex. at p. 265. *Mackay v. Commercial Bank of New Brunswick*, L. R. 5 P. C. 394-411, *Ranger v. Great Western R. W. Co.*, 5 H. L. C. 86, and *Adie v. Western Bank of Scotland*, L. R. 1 H. L. Sc. 145, referred to as justifying the conclusion that the defendant company were affected by the agent's fraud. *Nasmith v. Manning*, 5 A. R. 126, distinguished.]

The defendant Nesbitt was a proper party to the suit, and the plaintiff was not bound to elect against which party he would take judgment. See *Addison on Torts*, 6th ed., p. 748.

There will be judgment for plaintiff against both defendants for the sum of \$650, with interest from 12th December, 1899, together with costs of suit.

BELL, HORNE, MACWATT, Co. C.JJ. SEPTEMBER 1ST, 1902.

ASSESSMENT APPEAL.

RE UNITED GAS AND OIL CO. OF ONTARIO AND
TOWNSHIP OF COLCHESTER SOUTH.

*Assessment and Taxes—Valuation of Property—Gas Pipes—Natural
Gas Company.*

An appeal by the company from the decision of the Court of Revision for the township of Colchester South confirming an assessment.

J. H. Coburn, Walkerville, for the appellants.

J. H. Rodd, Windsor, for the township corporation.

The judgment of the Board of County Court Judges was delivered by

BELL, Co. J.—The appellants were assessed in this township for the year 1902 for 44,626 feet of 8-inch pipe, all of which, with the exception of 594 feet, is on private property.

The Court of Revision confirmed the assessment.

All of the above pipe was, when the assessment was made, in actual use for conveying natural gas from the wells in an adjacent township to Windsor, Walkerville, and other places, where it was used for supplying heat.

It appears from the evidence that for a number of years prior to and including the first part of the year 1901, there was a large supply of gas, and the business of the company was carried on at a profit. It further appears that in 1901 there was a great falling off in the supply of gas, continued up to the present time, and that the income of the company was practically expended in the expenses connected with the carrying it on, notwithstanding an increase of 20 per cent. in the selling price of the gas.