

## Province of Ontario.

## COURT OF APPEAL.

Osler, J. A.]

YOUNG v. TUCKER.

[May 3.]

*Appeal to Supreme Court of Canada—Bond—Defect in form—Jurisdiction—Action begun in County Court—Removal into High Court—Report of Drainage Referee in Action—Title to land—Servitude.*

Motion by the defendant for allowance of bond on appeal to the Supreme Court of Canada.

*Held*, that the bond must be disallowed on the ground of substantial error in the form—"by" instead of "binds" in the operative part which arose from following the form in Cassel's Supreme Court Practice, 2nd. ed., p. 220, as recently pointed out in *Jamieson v. London and Canadian L. & A. Co.*, ante 280.

*Held*, also, that the action originated in the High Court, notwithstanding that it was removed in fact into that court from the County Court by certiorari.

This was not a case like *Re Township of Raleigh and Township of Harwich*, the appeal in which to the Supreme Court was quashed in May, 1895, for want of jurisdiction. That was an appeal in a matter which originated in an appeal to the Drainage Referee from the report of an engineer for the purposes of a drainage by-law, while here the appeal to the Court of Appeal was from the report of the same referee in an action.

*Held*, also, that, although the damages were no more than \$25, the title to some interest in real estate came in question as the result of the judgment, which in effect decided that the defendant was not entitled to the servitude to which he contended that the plaintiffs' land was subject.

Order to go allowing the appeal upon filing a proper bond. Costs to the plaintiffs in any event.

*R. McKay*, for defendant. *Aylesworth*, Q.C., for plaintiffs.

From Rose, J.]

[May 5.]

SCOTTISH ONTARIO AND MANITOBA LAND CO. v. CITY OF TORONTO.

*Municipal corporations—Toronto water works—Purity of water—Injury to hydraulic elevator.*

The city of Toronto are bound by law to supply water from their system of water works to any inhabitant of the city who applies therefor and complies with the statutory conditions, and therefore no contractual relationship arises between the city and the consumer by reason of the application for water and the city's compliance therewith, and the city are not liable to the