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GIBSON v. THE TOWNSHIP OF NORTH  
EASTHOPE.

1895

\*Mar. 22.

*By-law—Drainage Act—Petition for drain—Withdrawal of name from—  
Improper construction.*

APPEAL from a decision of the Court of Appeal for Ontario (1), reversing the judgment of the Divisional Court and restoring that of the trial judge in favour of the corporation.

The action was brought by Gibson to have a by-law of the corporation quashed, or, in the alternative, for damages for injury to his property, resulting from improper construction and want of repair of a drain made under said by-law. The ground upon which said by-law was attacked was that the plaintiff had withdrawn from the petition and there were not sufficient names on it without him.

The trial judge held that plaintiff had not withdrawn from the petition, and refused to quash the

\*PRESENT :—Sir Henry Strong C.J., and Taschereau, Gwynne, Sedgewick and King JJ.

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by-law. He also held that plaintiff had failed to prove his allegations in the statement of claim on which his right to damages was founded. The Divisional Court reversed this decision on the first ground, and held the by-law invalid. The Court of Appeal restored the original judgment.

The Supreme Court, after hearing counsel for the respective parties, dismissed the appeal without reserving judgment.

*Appeal dismissed with costs.*

*Wilson* Q.C. for the appellant.

*Idington* Q.C. for the respondents.

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