

1934

* May 3, 4.

* May 8.

RURAL MUNICIPALITY OF SCOTT v. EDWARDS

ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN

Waters and watercourses—Question as to existence of watercourse—Right of proprietor to prevent surface water from draining on to his land.

APPEAL by the defendant rural municipality (by special leave granted by the Court of Appeal for Saskatchewan) from the judgment of the Court of Appeal for Saskatchewan (1), which held that there was nothing in the nature of a watercourse upon the lands in question, but only a succession of sloughs or depressions where surface water collected and at times of excessive rains or melting snow diffused itself over considerable areas and on such occasions moved through narrows to sloughs or depressions in lower areas; that, under the law in force in Saskatchewan, such surface water, which had accumulated on neighbouring lands and on the defendant's road allowance, could be prevented by the plaintiff from draining on to his land, and that, under the circumstances, he was entitled to an injunction restraining the defendant from interfering with a dam which plaintiff had for that purpose erected on his land.

On the appeal to the Supreme Court of Canada, after hearing argument of counsel, the Court reserved judgment, and on a subsequent day delivered judgment dismissing the appeal with costs, and expressing reasons as follows: "We concur with the conclusions of the Court of Appeal and we see no reason to add anything to the reasons (1) given in support of those conclusions by Mr. Justice Martin which, in our view, are entirely satisfactory."

Appeal dismissed with costs.

P. M. Anderson K.C. for the appellant.

Charles Schull for the respondent.

* PRESENT:—Duff C.J. and Rinfret, Cannon, Crocket and Hughes JJ.

(1) [1934] 1 W.W.R. 33.