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 \*May 23,  
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LINDLEY WATERS (PLAINTIFF).....APPELLANT;

AND

WILLIAM M. MANIGAULT AND }  
 OTHERS (DEFENDANTS) ..... } RESPONDENTS.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

*Appeal—Jurisdiction—Injunction—Ditches and watercourses—Title to land.*

Proceedings to restrain the owner of land from constructing a ditch thereon under the Ditches and Watercourses Act to prevent injury to adjoining property, do not involve any question of title to land or any interest therein within the meaning of 60 & 61 Vict. ch. 34 sec. 1 subsec. (a) relating to appeals to the Supreme Court of Canada in Ontario cases.

The fact that the adjoining land was to be taxed for benefit by construction of the ditch would not authorise an appeal under subsec. (d) as relating to the taking of a duty or fee, nor as affecting future rights.

APPEAL from the judgment of the Court of Appeal for Ontario affirming the judgment of the trial court which dismissed the plaintiff's action with costs.

The plaintiff's action was for an injunction to restrain the engineer of the township of Caradoc from proceeding to the cleaning out of a ditch made under the Ditches and Watercourses Act in such a manner as he claimed would cause injury to his lands by bringing down thereon surface water by artificial

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

means in an illegal and improper manner, and to interfere with the enjoyment of his legal rights in said lands. The plaintiff's land was charged with payment of a portion of the cost.

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The action was tried before Mr. Justice Meredith without a jury, who held that the proceedings for the construction of the ditch were regular, and dismissed the action. His judgment was confirmed by the Court of Appeal, and the plaintiff then appealed to the Supreme Court.

*Stuart* for the respondent, moved to quash the appeal for want of jurisdiction, claiming that only a trifling pecuniary amount was in dispute, and the case was not within any of the exceptions provided for by 60 & 61 Vict. ch. 34.

*Folinsbee* for the appellant, *contra*. There is a question as to an interest in real estate, the plaintiff's land being judicially affected. Moreover, our land is taxed, and that is the taking of a duty under subsec. (d) of the Act. Certainly our future rights are affected.

The court quashed the appeal with costs of a motion.

*Appeal quashed with costs.*

Solicitor for the appellant: *John Folinsbee*.

Solicitors for the respondents: *Stuart, Stuart & Ross*.