

ROBERTSON, J.]

[Dec. 19.

VIVIAN v. McKIM.

Assessment of property—Wrongfully including road allowances—Court of Revision—Notice of holding court— R.S.O., c. 193, s. 64, s-ss. 3, 9.

Held, that the fact that in assessing the real property of the plaintiffs for taxes the defendants had failed to deduct, in making the assessment, certain portions of the lands which were occupied or used for road allowances, rights of way, railways, etc., did not make the whole assessment null and void; but the plaintiffs' proper remedy was to go before the Court of Revision and appeal against the assessment of these portions of the property.

Held, also, that the notice of the time of holding the Court of Revision spoken of under R.S.O. c. 193, s. 64, s-ss. 3, 9, is required to be given by the clerk of the municipality only in the case spoken of in the said s-s. 3; that is to say, where a municipal elector appeals to the Court of Revision with respect to the assessment of some other person, and does not apply where the party is appealing against the assessment of his own property.

Aylesworth, Q.C., for the plaintiffs.

Cross for defendants.

BOYD, C.]

COMMISSIONERS FOR THE QUEEN VICTORIA NIAGARA FALLS PARK
v. HOWARD ET AL.

Crown lands—Ordnance lands—Chain reserve along Niagara river—Slope—Military communication—Government reserve—Waste lands—Public purposes—Military purposes—User for—Ordnance Act (1843), 7 Vict., c. 11.

In an action by the plaintiffs claiming under a patent from the Ontario Government, and the defendants claiming under a lease from the Dominion Government to try the right to a part of the chain reserved along the bank of the Niagara River, and the slope between the top of the bank and the water's edge, which had been reserved out of the original survey of the township of Stamford, and was claimed by the defendants to have been reserved or set apart for military or ordnance purposes,

Held, that the chain reserve was part of the waste lands of the Crown held for public purposes.

It was a government reserve originally made for public purposes.

Held, also, that as there was no evidence that this chain reserve was set apart for military purposes, or of any user, charge, or control of it by the military authorities, that it was not affected by the Ordnance Vesting Act of 1843, 7 Vict., c. 11, but remained a government reserve held for public purposes generally, and that the portion in question vested in the Province of Ontario, as successor of the old Province of Canada, until vested in the plaintiffs who were entitled to succeed.