

Not much help is, I think, to be derived from the two contradictory English cases to which the learned Judge refers in his judgment. The language there under consideration was quite different. There was no such context as we have here in the case of agents and other representatives of owners whose lands are involved in the scheme, and the consent to be given, by whomsoever given, had, for the protection of the infant, always a much favoured person, to be approved by the Court. There is no similar protection in our statute.

An infant, it is clear, may have more guardians than one. To put the simplest case, he may have a guardian of his person, and another and a different person as the guardian of his estate. The father may, it is true, if he desires it, be both. See the Infants Act, R.S.O. 1914 ch. 153, sec. 26. But, if he is intended to have the management and control of the infant's property, he is not exempt from giving proper security under sec. 27.

By force of the interpretation clause in question, the guardian of the infant may not only be brought in as a party to the proceedings under the statute, but he might also originate them, for he has all the powers of an owner, apparently, including that of entering into an agreement respecting the drainage scheme under sec. 9, which, when executed and filed, has all the effect of an award.

If there were two guardians, that is, one of the person and the other of the estate, there would, I suppose, be little doubt that the proper guardian to act under the statute would be the one entitled by law to manage the estate, and not the one entitled to control the person only. The Legislature might of course have conferred the power upon the guardian of the person only; but, considering the extensive powers of the guardian and finding the equivocal word in its present company, with other agencies all more or less associated directly with the management and control of the land of the owner represented, I cannot help thinking that the guardian intended by the statute was such a guardian as has by law the management and control of the infant's land, and not merely the guardian of his person.

The result is that, in my opinion, the plaintiff William Johnston the younger was not properly made a party to the proceedings, and was not and is not bound by the award.

That being so, it seems to follow, as the plaintiffs contend, that the whole drainage scheme falls to the ground. The objection is fundamental, like the objection of the absence of a proper