

MEREDITH, C.J.C.P., was of opinion, for reasons stated in writing, that there was no ground upon which the award could be supported. He thought that *Grand Trunk Pacific R.W. Co. v. Fort William Land Investment Co.*, [1912] A.C. 224, was conclusive against the award. He referred to sec. 406(8) of the Municipal Act, R.S.O. 1914 ch. 192, authorising the passing of by-laws for the construction and maintenance of conveniences such as had been erected by the city corporation in Parliament street, and to sec. 325, providing for the allowance of compensation for lands injuriously affected by the exercise of the corporation's powers. The main appeal should be allowed and the cross-appeal dismissed.

RIDDELL, J., was also of opinion, for reasons stated in writing, that the company had no claim enforceable by arbitration, and that the main appeal should be allowed and the cross-appeal dismissed.

LENNOX, J., was of opinion, for reasons stated in writing, that the main appeal and the cross-appeal should both be dismissed, and that the award should stand. At the end of his opinion, he summarised his reasons as follows:—

(1) But for the statute, what the council of the city had done in erecting the urinal would be an unlawful obstruction of the highway, a common law nuisance, and an indictable offence.

(2) By reason of what had been done, the claimant company had suffered financial injury differing in kind and extent from the injury and inconvenience occasioned to others, and but for the statute would have a cause of action against the city corporation.

(3) The statute gives the company an absolute right to compensation to the extent to which their property is injuriously affected, without shewing a common law right of action—the right of the city corporation to injure the company's property is conditional upon making compensation.

(4) The assumption that fair compensation is to be made for injury to property affected is the only basis upon which it can reasonably be inferred that the city corporation had the right to exercise their powers to the prejudice of owners or occupiers of properties; and, if otherwise, the statute conferred no power to execute the work where it had been executed, and the city corporation could have been and can be restrained by injunction.

MASTEN, J., was also of opinion, for reasons stated in writing, that the appeal and cross-appeal should both be dismissed.