

agents, and successfully distinguish *Ridgway v. City of Toronto* (1878), 28 U.C.C.P. 579; *McDougall v. Windsor Water Commissioners* (1900-01), 27 A.R. 566, 31 Can. S.C.R. 326; *Young v. Town of Gravenhurst* (1910-11), 22 O.L.R. 291, 24 O.L.R. 467. However, if the Commissioners were in no way statutory agents, their position was not bettered.

The Commissioners must rely upon such ordinary methods of enforcing any claim they may have, under sec. 59 of the Railway Act, as are open to all who may consider themselves injured by the appellants' railway. The Courts are open, and so far their jurisdiction has not been taken away.

The appeal should be allowed with costs, including the costs of obtaining leave to appeal.

MULOCK, C.J. Ex., and SUTHERLAND, J., agreed with RIDDELL, J.

MASTEN, J., also agreed, briefly stating reasons in writing.

*Appeal allowed.*

SECOND DIVISIONAL COURT.

JUNE 30TH, 1920.

RE NEPEAN AND NORTH GOWER CONSOLIDATED  
MACADAMISED ROAD CO.

*Highway—Expropriation of Toll-road by Provincial Government—  
Compensation Fixed by Ontario Railway and Municipal  
Board—Appeal—Public Works Act, R.S.O. 1914 ch. 35,  
sec. 32—Quantum—Evidence—Financial Loss—Replacement  
Value—Earning Value—Potential Value.*

An appeal by the company from an award of the Ontario Railway and Municipal Board of the 25th February, 1920, fixing the sum of \$2,800 as the compensation to be paid to the appellants upon the expropriation of their road by the Crown (Province of Ontario).

The company had claimed the sum of \$18,422.43, and appealed upon the ground that the amount awarded was insufficient.

The appeal was heard by RIDDELL, SUTHERLAND, KELLY, and MASTEN, JJ.

I. F. Hellmuth, K.C., and Wentworth Greene, for the appellants.

T. J. Agar, for the respondent.