

Burbidge, J.] THE KING v. HARRIS. [Dec. 11, 1901.

*Expropriation—Possession by officers of the Crown of land not expropriated
—Taking of highway—Rifle range—Damages.*

Defendants complained that possession of certain lands not covered by the plan and description filed by the Crown in an expropriation proceeding had been taken by the officers of the Crown, and claimed compensation.

Held, that the right to recover compensation must be limited to lands mentioned in the plan and description filed, and to the injurious affection of other lands held therewith.

The defendants' predecessor in title in laying off into lots the land of which a portion was taken from the defendants by the Crown, left a roadway between the land so divided and the top of the land adjacent to the sea. This roadway had been used by the public, and work had been done upon it by the municipal authorities. The land between that so taken and the sea was not included in the plan and description filed; but the Crown closed up the roadway, and from the land taken from the defendants opened another in lieu thereof.

Held, that the defendants were not entitled to compensation in respect of the taking of the roadway.

Where property adjoins a rifle range, the site of which has been expropriated from the lands of the owner of such adjacent property, he is entitled to compensation for damages arising from the use of such rifle range.

Martin, for plaintiff. *Helmcken* and *McPhillips*, for defendants.

Burbidge, J.] THE QUEEN v. YOUNG. [Dec. 11, 1901.

Expropriation—Lessor and lessee—Covenant to build on demised premises.

When a lessee is under covenant to build upon the demised premises, and a part of the said premises are expropriated by the Crown for the purposes of a public work, the fact that by the expropriation the lessee is relieved from his covenant, and the further fact that his rent is reduced by reason of the taking of a part of the premises, will be taken into consideration by the Court in fixing the amount of compensation to be paid to the lessee.

Martin, for plaintiff. *Helmcken* and *Luxton*, for defendants.

Burbidge, J.] THE KING v. SEDGER. [Dec. 11, 1901.

Expropriation—Public work—Owner residing on lot taken—Compensation.

Where the owner of certain land taken for a public work had resided thereon up to the time of the expropriation and had refused to give up possession until he was dispossessed under legal process by the Crown (the