far as the matter was gone into, it also appeared that the ruling of His Honour was quite correct.

William Johnston, the father, owned lot 25. His son William Johnston junior, it is said, is the owner of lot 26. At the time of the award, in 1910, he was 17 or 18 years old. Lot 26 was purchased with the father's money. The deed was taken, it is said, to the son. The deed is not produced, and I do not know whether there is anything on the face of it to indicate that the younger man was intended. It was assumed by all that one man, the father, owned both lots. When the engineer's meeting was called and he was upon the ground, Johnston senior stated that his son owned lot 26. The engineer saw the young man, who was present upon the farm, and told him that it was his (the engineer's) duty to adjourn the meeting so that notice might be given to him (the son); but, as all parties were entirely friendly at this time, Johnston junior acquiesced in the proceedings, and, so far as an infant is capable of doing so, waived notice. As he was an infant, I do not think his waiver of notice is effectual. The award cast upon him the duty of maintaining the drain through his land, lot 26. As this is mainly swamp, adjoining the lake, it is possible that it is not fair to put this burden upon him. If the father owned both lots, there would be no unfairness, as far as shewn, in calling upon him to maintain the drain across both lots.

Johnston junior, now of age, is being utilised by two other dissatisfied owners, Healy and McElroy, for the purpose of assisting them in their attack upon the award.

The statute, R.S.O. 1897 ch. 285, requires notice to be given to every "owner," but by the interpretation clause, sub-sec. 3, "owner shall mean and include an owner . . . the guardian of an infant owner . . . ;" and it is now argued that the notice to the father was sufficient, as he was the guardian of his infant son within the meaning of the statute.

I have not been able to find any authority upon this statute dealing with this question; but under the English Partition Act a similar question has arisen. There, a sale might be had instead of partition upon the request of the guardian of an infant. . . .

[Reference to Platt v. Platt (1880), 28 W.R. 533; Rimington v. Hartley (1880), 14 Ch. D. 630.]

I have come to the conclusion that a notice to the father is such a notice as was required by the statute. There could be no guardian ad litem, for there is no lis pending. There could be no guardian appointed by the Surrogate Court without the