

agreement such as that which they unsuccessfully set up; and it was to be observed that the arrangement between the parties was such that it might well have happened that, although they had expended time and money in negotiating for the sale of grinders, they would not be entitled to any commission because their efforts had not resulted in any sale being effected.

The judgment should be affirmed and the appeal be dismissed with costs.

MACLAREN, J.A., agreed with MEREDITH, C.J.O.

HODGINS, J.A., reluctantly agreed, giving reasons in writing.

MAGEE, J.A., read a dissenting judgment.

Appeal dismissed; MAGEE, J.A., dissenting.

SECOND DIVISIONAL COURT.

SEPTEMBER 13TH, 1918.

RE HYDRO-ELECTRIC POWER COMMISSION OF
ONTARIO AND PORTER ESTATE.

Expropriation of Land—Hydro-electric Power Commission—Strip of Land Taken for Transmission Line—5 Geo. V. ch. 19, sec. 5 (O.)—Compensation of Land-owner—Proper Method of Ascertainment—Award of Arbitrator—Findings—Evidence—Appeal—Undertaking to Erect and Maintain Fence.

Appeal by the executors of and devisees under the will of Charles Porter, deceased, from the award of an arbitrator fixing at \$3,400 the compensation to be paid to the appellants in respect of lands expropriated by the Commission.

The appellants sought to increase the amount awarded.

The appeal was heard by MULLOCK, C.J.Ex., CLUTE, RIDDELL, and SUTHERLAND, JJ.

W. Laidlaw, K.C., and E. H. Cleaver, for the appellants.

G. S. Kerr, K.C., for the Commissioners, respondents.

KELLY, J., read a judgment in which he said that the appellants were the owners of a farm in the township of Nelson, and the