

Held, that these were matters of internal regulation and subject to the decision of the mayor or chairman of the council, and the only appellate tribunal was the council.

The Municipal Act provides, s. 275, that "every council may adjourn its meetings from time to time."

Held, that a meeting of the council might adjourn temporarily, without a formal motion to adjourn, by the consent of the majority of a quorum present; and, even if the adjournment in this case, announced by the mayor, was not by the consent of the majority, the validity of an objection grounded on the absence of such consent would be so doubtful that the Court should not in its discretion quash the by-law passed after the adjournment.

Talbot Macbeth and *G. N. Weeks* for the applicant. *T. G. Meredith* for the city corporation.

Boyd, C. *STEWART v. OTTAWA AND NEW YORK R. W. Co.* [April 24.
*Railways—Expropriation of lands—"Owner"—Person in possession—
Title—Jus tertii—51 Vict., c. 29, s. 103 (D).*

By s. 103 of the Railway Act of Canada, 51 Vict., c. 29, the lands which may be taken without the consent of the owner shall not be more than 650 yards in length by 100 yards in breadth. The defendants desired to use for their railway a tract of land more than 650 yards long of which the plaintiff was in possession, and they alleged that a strip in the middle of the tract was ordinance land of the Crown, and therefore sought to expropriate two pieces, one on each side of the alleged ordinance reserve, which latter the plaintiff claimed as his own by length of possession.

Held, that the scheme of the Act is that the company shall deal with the person in possession as owner, and if the company propose to disturb that possession, it must be pursuant to the powers conferred by the Act; the matter of title is to be held in abeyance until a later stage in the expropriation proceedings. The company cannot, even in the case of defective title, ignore the person who actually occupies the land as owner, and proceed as if his interest had been duly invalidated by legal process on the part of the real owner. Though part of the land be held by a precarious tenure, yet where there is possession of the whole as one property, there should be but one set of proceedings and one arbitration, and the whole should be dealt with under the statute as the property of one and the same owner.

Oster, Q.C., and *Wyld* for the plaintiff. *D'Arcy Scott* for the defendants.