

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

N.S.]

[May 14.

LEAHY v. THE TOWN OF NORTH SYDNEY.

*Watercourses—Riparian rights—Expropriation—Trespass torts
—Diversion of natural flow—Injurious affection—Damages
—Execution of statutory powers—Arbitration—Injunction
—Mandamus—Construction of statute.*

A riparian proprietor whose property has been injuriously affected by the unlawful diversion of the natural flow of a watercourse may recover damages therefor, and may also obtain relief by injunction restraining the continuation of the tortious acts so committed. The powers conferred upon the town council of the town of North Sydney, N.S., by the Nova Scotia statute, 59 Vict. c. 44, for the purpose of obtaining a water supply give them no rights in respect to the diversion of watercourses except subject to the provisions of the fourth section of the Act, and after arbitration proceedings taken to settle compensation for injuries affection to property resulting from the construction or operation of the waterworks. *Saunby v. The Water Commissioners of London* (1906), A.C. 110, followed.

Appeal dismissed with costs.

Drysdale, K.C., for appellant. *Newcombe*, K.C., and *O'Connor*, for respondents.

Que.]

[June 12.

WILSON v. SHAWINIGAN CARBIDE COMPANY.

Appeal—Jurisdiction — Declinatory exception — Interlocutory judgment—Review of judgment on exception—Practice.

The action was dismissed in the Superior Court upon declinatory exception. The Court of King's Bench reversed this decision and remitted the cause for trial on the merits. On motion to quash a further appeal to the Supreme Court of Canada,

Held, that such motion should be granted on the ground that