

MIDDLETON, J.

APRIL 14TH, 1916.

## \*RE PERRAM AND TOWN OF HANOVER.

*Municipal Corporations—Expropriation of Property and Water Power Leased to Claimant by Corporation — Compensation for Loss of Benefit for Unexpired Period of Lease—Deduction of Rent—Anticipated Profit or Loss from Business Carried on by Claimant—Expropriation under Public Utilities Act, R.S.O. 1914 ch. 204—Arbitration and Award—Right of Appeal from Award—Application of Part XVI. of Municipal Act, R.S.O. 1914 ch. 192.*

Appeal by Perram from the award of the majority of three arbitrators upon the appellant's claim for compensation for the loss of leased premises taken by the Corporation of the Town of Hanover under the Public Utilities Act, R.S.O. 1914 ch. 204.

The appeal was heard in the Weekly Court at Toronto.

H. S. White, for Perram.

E. D. Armour, K.C., and F. S. Mearns, for the town corporation.

MIDDLETON, J., in a written opinion, referred first to a preliminary objection taken by the respondents, that no appeal lay. By sec. 4 of the statute, he said, Part XV. of the Municipal Act, R.S.O. 1914 ch. 192, was made applicable to the exercise by the corporation of the powers conferred by the statute. Part XV. gave power to expropriate lands required for municipal purposes, and it provided (sec. 325 (2)) that the compensation, if not agreed upon, should be determined by arbitration. The provisions as to arbitration, however, are found in Part XVI. of the Municipal Act; and the arbitration and award in this case were based upon the assumption that the provisions of Part XVI. applied. The right to appeal from the award being found in Part XVI., which is not in terms made applicable, it was contended that there was no right to appeal. The learned Judge did not agree with this contention. Part XV., giving the right to expropriate, being made to apply to the taking of lands under the Public Utilities Act, and providing for the determination by arbitration of the amount to be paid, the provisions of Part XVI., which are auxiliary to the provision giving the right to arbitrate, also apply, and the right to appeal, expressly conferred by Part XVI., exists.