

time of passing by-law No. 355 of the corporation of the town of Berlin, that is to say, to wit, the 6th day of September, 1906, the said corporation of the town of Berlin intend to assume the ownership of your railway, and all real and personal property in connection with the working thereof, on payment of the value thereof to be determined by arbitration, and generally to exercise in relation thereto, all the powers conferred upon the said corporation by sec. 41, and any other sections of the said Act which may be applicable.

“That the arbitration may be proceeded with, and the value of the said railway and property determined, as provided by the said section, you are hereby notified to submit to the mayor of the said corporation the name of a person whom you desire to be appointed sole arbitrator to determine such value, in order that the said corporation may consider such nomination, and either accept the same or submit another name or other names.

“Dated this 12th day of January, 1906.

“The Corporation of the Town of Berlin.

“A. Brecker, Mayor.

“A. Alleter, Clerk.”

W. B. Raymond and J. A. Scellen, Berlin, for the town corporation.

W. D. McPherson, for the railway company.

MACMAHON, J.:—On 15th June the municipal corporation notified the railway company that an application would be made to a Judge in Chambers on the 19th for an order appointing an arbitrator or arbitrators to determine the value of all the real and personal property of the railway company pursuant to sec. 41 of the Street Railway Act, R. S. O. 1897 ch. 208, and, in pursuance of the notice served upon the railway company on behalf of the applicants dated 12th January, 1906.

Nothing appears to have been done under the notice, as on 21st June an agreement under seal was entered into between the town of Berlin and the railway company, which recites that the 20 years during which the company was authorized to operate the railway would expire on 6th September, 1906, and that the municipal corporation intended to assume the ownership, etc.; and that the railway company and the corporation had been unable to agree upon a single arbitrator, and had agreed there should be three arbitrators, and that the town had appointed John M. Scully as arbitrator, and