

Reports and Notes of Cases.

Dominion of Canada.

SUPREME COURT.

Ont.] CANADIAN NORTHERN ONTARIO R.W. Co. v. HOLDITCH. [Oct. 13.

Expropriation—Railway Act — Municipal plan — Severance of lots—Injurious affection—Reference back to arbitrators—R.S.C. 1906, c. 37.

For the purposes of expropriation under the Dominion Railway Act, unless lots laid out on the owner's registered plan are so united as to form one complete whole, each lot taken by the railway company is an independent, separate and complete property in itself and the owner is not entitled to compensation for injurious affection to one such lot, no part of which is taken and which is severed from the land expropriated by a railway or by land sold to another person. *Cooper-Esses v. Acton Local Board*, 14 App. Cas. 133, distinguished. Duff and Anglin, JJ., *contra*.

The owner of land adjacent to or abutting upon the street over which a railway passes is entitled, by 1 & 2 Geo. V. c. 22, s. 6, to compensation for injury to such land but the compensation can only be awarded by the Board of Railway Commissioners and is not a matter for arbitration under the Railway Act.

Held, per Duff and Anglin, JJ.:—The arbitrators appointed to value the land so expropriated are *functi officio* when their award is delivered and an appellate court has no power to remit the matter to them for further consideration. *Cedars Rapids Manufacturing Co. v. Lacoste* (1917), A.C. 569, referred to.

Appeal allowed with costs.

Armour, K.C., and Geo. F. Macdonnell, for appellants. Robert McKay, K.C., for respondent.

Ont.] NORFOLK v. ROBERTS. Oct. 14.

Municipal corporation—Undertaking with ratepayer—Non-collection of taxes—Discretion.

Held, per Idington and Anglin, JJ.:—Where there is no stat-