

570, was opposed to the right here claimed. It is clear, I think, that it was not intended by the decision in that case to lay down anything contrary to the rule expressed in *Caledonian R.W. Co. v. Walker's Trustees* (1882), 7 App. Cas. 259. Mr. Justice Nesbitt, who delivered the judgment of the Court, recognises that rule, but deprecates its extension to cases where the person injured is being injured as one of the public. . . . As the arbitrators have viewed the respondent's property as one substantially diminished in value by the exercise of the corporate powers, irrespective of any particular uses which may be made of it, that case has no application.

Appeal dismissed with costs.

NOVEMBER 27TH, 1914.

RE FOWLER AND TOWNSHIP OF NELSON.

Municipal Corporation—Expropriation of Land—Severance of Farm by Taking Strip for New Road—Part of Old Road Conveyed to Land-owner—Arbitration and Award—Compensation for Land Taken—Value of Trees in Orchard—Damage by Severance—Injurious Affection—Appeal from Award—Evidence—Increase in Amount—Municipal Act, 1913, sec. 325 (1).

Appeal by the township corporation and cross-appeal by Robert C. Fowler, the claimant, from the order of LATCHFORD, J., 6 O.W.N. 409, increasing the amount allowed by arbitrators in respect of land of the claimant expropriated by the corporation for the purpose of a road.

The appeal and cross-appeal were heard by MEREDITH, C.J. O., MACLAREN, MAGEE, and HODGINS, J.J.A.

W. T. Evans, for the township corporation.

C. A. Moss, for the claimant.

The judgment of the Court was delivered by HODGINS, J.A.:—The learned Judge increased the award of compensation by \$400, additional value upon the apple trees taken, and by \$1,000 for damage by severance over and above the benefit derived by the respondent from the work.