

paper, was not entitled to security for costs under the Act. We do not see, however, that that decision can be said to cover the case of one who is on the regular staff of the newspaper in which the alleged libel is published, as the defendant in *Neil v. Norman* appears to have been.

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ont.] OTTAWA ELECTRIC CO. *v.* BRENNAN. [May 7.

Appeal per saltum—Jurisdiction to grant—R.S.C. c. 135, s. 26 (3).

The plaintiffs, Brennan and others, whose lands were expropriated by the Electric Co., appealed to the High Court of Justice from the award of arbitrators appointed to determine the value of said lands. The appeal was heard before Mr. Justice McMAHON who increased the amount of the award. The company having no right of appeal to the Court of Appeal, according to a late decision of that Court, *Birely v. Toronto, Hamilton & Buffalo Railway Co.*, 25 O.A.R. 88, applied to a judge of the Supreme Court of Canada, in chambers, for leave to appeal direct from the decision of McMAHON, J., under s. 26, sub-s. 3 of the Supreme and Exchequer Courts Act. The application was referred by the judge to the full court.

Held, that to give jurisdiction to a judge to grant leave to appeal per saltum under s. 26, sub-s. 3 of the Act it is essential that there should be a right of appeal to the Court of Appeal, and it not being shewn that there was such a right in this case, the motion should be refused. Motion refused with costs.

Glyn Osler, for appellants. *G. F. Henderson*, for respondents.

N.B.] JONES *v.* CITY OF ST. JOHN. [May 7.

Assessment and taxes—Appeal from assessment—Judgment confirming—Payment under protest—Res judicata.

J. having been assessed in 1896 on personal property as a resident of St. John, N.B., appealed without success to the appeals committee of the common council and then applied to the Supreme Court of New Brunswick for a writ of certiorari to quash the assessment which was refused. An execution having been threatened he then paid the taxes under protest.