

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

FEBRUARY 16TH, 1914.

GUEST v. CITY OF HAMILTON.

5 O. W. N. 889.

Municipal Corporations — By-law Expropriating Lands—Power of Corporation to Repeal—No Entry Authorised—Trifling Entry in Fact Made—Lesser Quantity of Land Taken — Consolidated Municipal Act 1903, s. 463.

MIDDLETON, J., 25 O. W. R. 274; 5 O. W. N. 310, *held*, that where an expropriatory by-law of a municipality did not authorise or profess to authorise an entry to be made upon the lands expropriated that a trifling entry upon one corner of the said lands for the purpose of constructing a drain did not preclude the municipality from repealing the by-law.

Grimshaw v. Toronto, 28 O. L. R. 512, discussed.

SUP. CT. ONT. (2nd App. Div.) dismissed appeal with costs, reserving to appellant all rights outside the claims in the action.

Appeal by the plaintiffs from the judgment of HON. MR. JUSTICE MIDDLETON, 25 O. W. R. 274.

The appeal to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND and HON. MR. JUSTICE LEITCH.

J. L. Counsell, for the appellant.

H. E. Rose, K.C., for the defendants, respondents.

THEIR LORDSHIPS dismissed the appeal with costs, reserving to the appellant all rights outside of the claims in the action.
