

the assent of two-thirds of the voters, was subsequently confirmed by an Act of the Provincial Legislature. Notwithstanding the by-law and confirmatory Act, the plaintiffs claimed the right to tax the defendant for school rates on an assessment of \$900,000 and for general rates on the assessment of \$100,000. The defendants disputed the right of the plaintiffs to tax the defendants for school rates on any assessment beyond \$100,000. Falconbridge, C.J.K.B., who tried the action, gave judgment for the plaintiffs, and the Appellate Division affirmed his decision, which in turn is now affirmed by the Judicial Committee of the Privy Council (Lord Buckmaster, L.C., and Lords Haldane, and Sumner).

RAILWAY—LANDS TAKEN—COMPENSATION—SEVERANCE—IM-
PAIRED ACCESS—NOISE, SMOKE AND VIBRATION—DISJOINED
PROPERTIES—RAILWAY ACT (R.S.C. c. 37) s. 155.

Holditch v. Canadian Northern Ont. Ry. (1916) A.C. 536. This was an appeal from the Supreme Court of Canada reversing a judgment of the Supreme Court of Ontario and restoring the award of arbitrators made under the Railway Act (R.S.C. c. 37) fixing compensation for lands taken by a railway. The lands taken were 20 lots in a block of land originally owned and laid out in building lots by the appellant or his predecessor in title, some of which lots had been sold, but three-fifths of which were still owned by the appellant. The arbitrators found that 49 other specified lots of the appellant were injuriously affected by the expropriation of the 20 lots, by reason of the access thereto being made more difficult owing to the construction of the railway and the raising of the grade of the streets at crossings, to the extent of \$4,800. Also that 40 other lots were injuriously affected by reason of vibration, noise and smoke from trains, but as to neither of these claims did the arbitrators make any award of damages, considering that the Railway Act did not authorize them so to do. The Appellate Division of the Supreme Court of Ontario remitted the matter to the arbitrators holding that they were entitled to award damages for the injurious affection of both the 40 lots and the 49 lots as claimed, but the Supreme Court of Canada reversed that decision; and the Judicial Committee of the Privy Council (Lords Haldane, Parker and Sumner) have now affirmed the judgment of the Supreme Court of Canada. With regard to the claim for damages for injurious affection of lands Lord Sumner, who delivered the judgment of the Committee, says: "The basis of a claim for compensation for lands injuriously affected