

to the company," and the purchaser is, upon compliance with the necessary formalities, entitled to be registered as transferee. Judgment of FERGUSON, J., affirmed.

W. H. Blake, K.C., for company. *C. A. Moss*, for applicant.

Divisional Court.]

[March 14.

ONTARIO POWER COMPANY *v.* WHATTLER.

Partition—Sale—Special value—Con. Rules, form No. 158.

The form of judgment for partition or sale (Con. Rules, No. 158) must be read in the light of the legislation by which the court has been given the right to order a partition instead of a sale, and its meaning is that a partition is to be made unless it is shewn by those who ask for a sale that a partition cannot be made without prejudice to the interests of the owners of the estate as a whole.

A report directing partition was therefore upheld where there was no physical difficulty in dividing the land and the plaintiffs had been allotted that portion of it adjoining other lands owned by them, the argument in favour of a sale being that the portion allotted to the plaintiffs was of special value to them, so that in the event of a sale it would have been necessary for them to purchase the whole of the land at whatever price it might have been bid up to, and thus have benefited the co-owners. Judgment of FALCONERIDGE, C.J.K.B., affirmed.

Masten, for appellants. *Cassels*, K.C., and *F. W. Hill*, for respondents.

ELECTION CASES.

Moss, C.J.O.] IN RE NORTH RENFREW (PROVINCIAL). [March 7.

Petition—Qualification of petitioner—"Reside"—Ontario Controverted Elections Act.

The word "reside" in s. 3 of the Ontario Controverted Elections Act, R.S.O. 1897, c. 11, as amended by 62 Vict. (2) c. 6, s. 1, is intended to denote the place where the petitioner "eats, drinks and sleeps." And therefore, a petitioner who owned a farm assessed in all for more than one thousand dollars, and all in one electoral district, but the house and part of the land, assessed for less than that sum, being in one township, and the main part of the land in another township, was held to be unqualified, the assessment of the part with the house being alone regarded.

Hellmuth, K.C., for respondent. *R. A. Grant*, for petitioners.