REPORTS AND NOTES OF CASES

Dominion of Canada.

SUPREME COURT.

Ontario.] [Dec. 9, 1895.

TORONTO JUNCTION *v.* CHRISTIE.

Appeal—Judgment awarding damages to respondent—Increase of damages—Cross appeal.

C. claimed damages from the town of Toronto Junction for injury to his house property by the raising of the grade of the street on which it stood, and the claim was submitted to arbitration under the Ontario Municipal Act, 1892. The arbitrators considered that C.'s property was benefited by the alteration in the grade of the street, which was raised to the level of the houses, and so made a more convenient entrance, and they awarded him nominal damages. On appeal to Mr. Justice ROSE, he increased the award to substantial damages, and the Court of Appeal sustained his judgment, being equally divided as to his jurisdiction so to deal with the case. The corporation then appealed to the Supreme Court of Canada.

Held, that the Ontario Judicature Act (R.S.O., c. 44, ss. 47, 48), and Rule 16 thereunder, gave the Court of Appeal power to increase the amount of the award to the extent to which it had been increased by Mr. Justice ROSE, and the judgment appealed from was right; that the Supreme Court under its rule no. 61, had the like power to increase damages awarded to a respondent though there was no cross-appeal: *Robertson* v. *The Queen*, 3 S.C.R. 52, followed; and that the amount awarded by ROSE, J., did not compensate the respondent for the injury to his property, and it should be still further increased.

Held, per STRONG, C.J., that as the statute under which the arbitration took place required the Court to pronounce just such judgment as the arbitrators should have given, it was sufficient notice to the appellant of what the Court might do without a cross appeal.

Appeal dismissed with costs subject to variation by increasing the damages.

Aylesworth, Q.C., and *Going*, for appellant.

Riddell, and *Gibson*, for respondent.

Ontario] [Mar. 4.

EASTMURE *v.* CANADA ACCIDENT INSURANCE COMPANY.

Master and servant—Dismissal—Agent of insurance company—Acceptance of agency for rival company.

By agreement in writing Eastmure became chief agent for Ontario of the Canada Accident Insurance Company, doing ordinary accident, plate glass and