

Section 50 of the Exchequer Court Act reads as follows:—

“ 50. The Court shall, in determining the compensation to be made to any person for land taken for or injuriously affected by the construction of any public work, take into account and consideration, by way of set-off, any advantage or benefit, special or general, accrued or likely to accrue, by the construction and operation of such public work, to such person in respect of any lands held by him with the lands so taken or injuriously affected.”

Section 198 of the general Railway Act (c. 37, R. S. C.), reads as follows:—

“ 198. The arbitrators or the sole arbitrator, in deciding on such value or compensation, shall take into consideration the increased value, beyond the increased value common to all lands in the locality, that will be given to any lands of the opposite party through or over which the railway will pass, by reason of the passage of the railway through or over the same, or by reason of the construction of the railway, and shall set off such increased value that will attach to the said lands against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands.”

By the Exchequer Court Act, what has to be taken into account by way of set off is any advantage, special or general, accrued or likely to accrue, etc.

Section 198 of the general Railway Act, limits the set off to the increased value beyond the increased value common to all lands in the locality, etc.

Dealing with a case relating to taxation (*Nicholls v. Cumming*, 1 S. C. R. p. 422), the late Chief Justice Ritchie (then Ritchie, J.), used the following language:—

“ The principle of the common law is, that no man shall be condemned in his person or property without an opportunity of being heard. When a statute derogates from a common law right and divests a party of his property, or imposes a burthen on him, every provision of the statute beneficial to the party must be observed. Therefore it has been often held, that acts which impose a charge or a duty upon the subject must be construed strictly, and I think it is equally clear that no provisions for the benefit or protection of the subject can be ignored or rejected.”