

The division plan cannot be found. The suppliants contend that the effect of this will coupled with the deed is to extend lot six so as to comprise the land in question, and that Owen McGuirk in devising the lands as shore land intended to pass the beach. I incline to the view that this contention is correct. If the beach in question did not pass by the will then Owen McGuirk died intestate as to these beach lands in question and the title passed to his heirs. All the heirs have conveyed to the suppliants prior to the filing of the petition. The Crown in the description attached to the registered plan describes the beach lands in question as part of lot six. I find that the suppliants have proved their title.

As to the damages to be allowed, Mr. Robertson in his argument presented a very forcible and plausible case in favour of his contention that the special adaptability of the land in question for wharf purposes should be considered as adding a very large value to the land expropriated.

Reliance is placed upon the case of *Lucas v. Chesterfield Gas & Water Board* (1909), 1 K. B. 16, and the class of cases there cited, most of which are reported in full in *Browne & Allan's Law of Compensation* (2nd ed., p. 659). In most of these cases the intrinsic value of the land taken was on or in the land itself. The land formed by itself, or in connection with other lands, a natural reservoir. There were also possible purchasers, as in the *Countess Ossalinsky* case.

In the *Lucas* case *Vaughan Williams, L.J.*, refers to the property in question touching "the natural and peculiar adaptability thereof for the construction of a reservoir." At page 25 he refers to the case of lands adjoining large works, the owner of which would likely be willing to pay a larger price, etc. There would be no right of expropriation in the case put. At page 27 it is laid down: "Arbitrators are not to value the land with reference to the particular purpose for which it is required. . . . You must not look at the particular purpose which the defendants . . . are going to put land to when they take it under parliamentary powers . . . for any special purpose."

Again, at page 28: "They should value the possibility and not the realised possibility."