

The award seems to rest mainly upon the comparison afforded by the sales of the property on the corner of Peter and Mercer streets, about 80 feet north of Wellington street.

Judged by this standard, and having regard to the probable increase in value during a short period before the location of the railway was definitely settled, it is not difficult to arrive at a value of \$335 a foot upon the Peter street frontage, on the 14th February, 1912. The difference in depth from Peter street is 67 feet, or about fifty per cent. greater in favour of the respondents' lot, and is enough to allow an independent frontage on Wellington street of 60 feet. But the fair result of all the evidence, admissible or inadmissible, does not warrant an advance beyond \$335 a foot, and indeed renders it doubtful whether that is not too high.

It is not necessary to consider the question of the admissibility of the evidence objected to as based merely on information about reported sales and transactions without any first-hand knowledge, as the award, to the extent I have indicated, may be supported without it.

Nor is it incumbent on us to determine whether the proper conclusion to be drawn from the reasons given by the learned County Court Judge (one of the arbitrators) is that he arrived at the rate of \$368.50 per foot by adding ten per cent. to what he thought was the true value of the land in question, or whether he merely intended to indicate that, viewed as a compulsory purchase, the rate of \$368.50 per foot was justified, apart from that addition.

It may not, however, be out of place to point out that there is no express authority for adding ten per cent. except in one section of the Municipal Act. Mr. Justice Burbidge, in *Symonds v. The King* (1903), 8 Ex. C.R. 319, allows it as being usual in cases where the actual value of lands can be closely and accurately determined. It is said to be the practice in England, though it does not seem to be accepted as settled law. See *Jervis v. Newcastle and Gateshead Water Co.* (1895), 13 Times L.R. 14.

Mr. Cripps, a great authority upon compensation, speaks of it as "only justified as part of the valuation and not as an addition thereto:" 5th ed., p. 111. Arnold on Damages and Compensation, in his work published this year, adopts this statement, p. 230.

Both these questions can be left to be settled when they arise in such a way as to require determination.