

If the applicant bases his claim upon R. S. O. 1897 ch. 119, sec. 30, it is apparent that he is met with a two-fold difficulty: (1) the Master has not found as a fact that the expenditure was made under the belief that the land was his own; and (2) if such a finding had been made, it is not the amount of the expenditure to which he is entitled, but "the amount by which the value of the land is enhanced by such improvements."

Were this a partition action, perhaps the first difficulty could be got over—it is fairly clear that in partition it is proper to consider the amount by which the property has increased in value by the improvements and repairs made by one person interested: *Leigh v. Dickson*, 15 Q. B. D. 61, 67; *Teasdale v. Sanderson*, 33 Beav. 534; *In re Jones*, [1893] 2 Ch. 461. But whether, outside of the statute, improvements are to be allowed for in an action like the present, I shall not decide without argument, if it be necessary to decide the question at all.

In any case, even in a partition, the amount allowed is not the amount of the expenditure, but the amount by which the value of the property is increased—"the increase in value," as Lord Justice Cotton puts it in *Leigh v. Dickson*—the extent to which "the present value of the property has been increased by the expenditure," as North, J., has it in the last case cited, but in no case exceeding the amount of expenditure: see *In re Jones*, [1893] 2 Ch. at p. 479.

The motion will be refused, with costs payable to the official guardian, and the matter referred back to the Master to report specially: (1) whether the applicant . . . made lasting improvements on the land in question under the belief that the said land was his own; (2) if so, the amount and date of the expenditure in such lasting improvements; (3) the amount by which the value of the land was enhanced by such improvements.

Since the land has been sold, the last-named amount will be the increased value at the sale, and for the purpose of the sale. As William John Coulter is said to have bought the land, the evidence as to increased value will be scrutinized closely, more particularly as, though, no doubt, he obtained certain advantages from the improvements, he