

without putting himself in danger of it being taken away without compensation when the indemnity is determined upon for the land itself. His right of ownership is very seriously restricted; and, moreover, this land becomes a public way, as stated in s. 411, of the charter.

It is indeed true that the owner has the prospect of seeing a street cross his property; and then, for this reason, the lots which front on the projected street increase in value and compensate him. It is probably this increased value which has induced the legislature to adopt such legislation apparently contrary to the principle which ordains that there is no expropriation without compensation. But, on the other hand, if the city deemed it inadvisable to carry out its project of opening a street at the spot in question, this would create grave injustice. But that is a matter for the legislature and not for the courts.

In the present case, the street was laid on the plan in 1887, as I have above stated, and it was only in 1913 that the city determined to acquire the street, and to have the compensation settled which should be paid to the owner. The expropriation commissioners proceeded to hear the parties and their witnesses, and the majority decided on granting 25c. a foot to the owner. The latter is not satisfied with this decision, and asks that it be annulled and set aside.

The chief question raised is whether the commissioners should concede the same value to the street as to the adjoining lots. It has been shewn that the adjoining lots sold at about 60c. a foot; accordingly, the appellant claims that he should be paid the same price for the street.

It is unquestionable that from the moment a line is laid out across a vacant lot for the purpose of a street that the right of the owner is necessarily restricted. A servitude of right of way is created there, since, under s. 411 of the charter, a street laid on a plan becomes a public way. He remains indeed the owner of the land, but his right is not absolute as it was before. Then, whether we should consider this burden as a servitude or as a restriction of the right of ownership, it none the less remains that the land had not, when the commissioners fixed the compensation, the same value as the adjoining lands upon which there is no such burden. The commissioners were, therefore, bound, in my opinion, to take into consideration such burden and such right of way. There

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