

CITY OF TORONTO AND LEAK.

would only have afforded an opportunity for correcting any error into which the arbitrators might inadvertently have fallen. There are some statements in the affidavits leading to the conclusion that one at least of the two arbitrators who made the award did not desire to furnish any facility for reviewing the decision, even although possibly it might be in opposition to the spirit of the statutes or productive of great injustice. The rule, however, does not found any specific objection on this, and we cannot, I think, therefore assume that it really does afford a substantial ground for impeaching the award. It is for the legislature, not for the courts, to determine whether in awards made upon submissions of this character the items allowed or rejected on either side should be stated by the arbitrators for the information of parties.

I have not failed to consider the observations made on the ground that the submission was compulsory in the case of the Great Western Railway Company v. Baby, (12 U. C. R. 106,) where the court did set aside the award on the ground that the arbitrators had not conformed to the statute in making their estimate, but made the company pay most extravagantly for the expected advantage of an immense trade which the railway was expected to bring, and for the enhancement of the value of the plaintiff's property by that trade. The objection certainly appeared only on the affidavits, but the exorbitance of the amount awarded was pointed out in the rule as evidence of corruption in the arbitrators, which is not charged before us. In that case the court was, I may say, startled with the award, which gave more pounds for the land than it would have produced shillings if sold at that time, or probably at any time since, but the case was not decided on the ground that being a compulsory submission the court would apply other principles of decision than those which govern in respect to awards generally, nor have I found any case going that length. It is to be observed, also, that in that case the act incorporating the company expressly gave power to the courts to review the award.

In re Penny (7 E. & B. 660) affords perhaps the nearest analogy. There the court set aside an inquisition and find-