been considered in this Court in the case of Re Small and St. Lawrence Foundry Co. (1896), 23 A.R. 543. . . .

I think the weight of judicial opinion, in cases of compensation or the like, is to admit the evidence of other sales, and to treat its weight, after cross-examination, as a matter for the tribunal to deal with. And when Mr. Justice Burton (in the Small case) points out that this class of evidence tends to raise "a multiplicity of collateral issues confusing the jury and acting as a surprise upon the parties," I think he states the full extent of the objection to it. Evidence of previous sales of the same property is open to many, if not all, of the objections raised to evidence of sales of neighbouring properties, and may involve issues no less confusing—even if the sales are recent and under similar circumstances.

In these business days, in which it is possible by means of adjournment or of conference to guard against surprise, that element may be safely left to the discretion of the presiding Judge or to the arbitrators. I am not convinced that the issues raised are wholly collateral. It is rather that the evidence may be of no practical value without knowledge of the circumstances in each case: per Meredith, J.A., in Re Toronto Conservatory of Music and Governors of the University of Toronto (1909), 14 O.W.R. 408, at p. 410. This is an objection to its weight rather than to its admissibility; and, as Wigmore, Can. ed., vol. 1, p. 463, points out, it is evidence which the commercial world perceives and acts upon.

No doubt, there are elements which such evidence must possess before it should be received. They are, substantial similarity in the conditions regarding the property, proximity of situation, and, where possible, a likeness in use or in potentiality, and the sales should be recent and under like terms. . . .

Dealing with the case in hand, upon the principle referred to in Re Ketcheson and Canadian Northern Ontario R.W. Co., ante 36, I do not think that any of the sales, except one, can be said to afford any safe basis of value. They are not shewn to come within the limitations which I have stated, and similarity of conditions is not proved.

It is said that the sale and purchase of an undivided half of the property in question here is the only relevant fact. I do not agree with this. It is evidence to establish a market value, under Dodge v. The King, supra. But, if the rule is adopted, as I think it should be, that sales of similar and near-by properties may be admitted in evidence, it is not the only factor.