

*Access by Closing—Construction of sub-sec. 4 of sec. 86—
Depreciation in Value of Lots—Compensation—Closing of
Street for Benefit of Private Corporation without Advantage to
Public—Discretion of Judge—Appeal.*

An appeal by Thomas McLaughlin from an order of the Judge of the County Court of the County of Carleton, made on the petition of the Ottawa Land Association Limited, under sec. 86 of the Registry Act, R.S.O. 1914 ch. 124, directing that registered plan No. 157 be altered and amended by stopping up Hinton avenue from the north side of Spencer street to the south side of Bullman street, in the city of Ottawa, and that that part of Hinton avenue be stopped up accordingly.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL and SUTHERLAND, JJ., and FERGUSON, J.A.

T. A. Beament, for the appellant.

J. P. Ebbs, for the association, respondents.

SUTHERLAND, J., in a written judgment, said that sales of lots had been made according to plan 157. The plan shewed several streets, one being Hinton avenue, running north and south, and connecting on the north with Scott street, running east and west, and extending south to Wellington street, an important highway.

The association still owned a number of lots on the plan. Three or four years ago, the appellant bought from the association four lots on the east side of Hinton avenue, lot 1290 being the most northerly, abutting on Scott street on the north, and lot 1305 the most southerly, abutting on Bullman street on the south.

Hinton avenue extends from Scott street southerly to a considerable distance, and in its course is met or intersected by cross-streets running east and west, the first of which, Bullman street, begins at Hinton avenue and runs easterly; the next to the south being Spencer street and the next Armstrong street, both of which intersect it.

The association sold the lots on each side of Hinton avenue, from Bullman street to Spencer street, to one Beach, who bought for the purpose of establishing a manufacturing plant thereon. Beach desired to have the land so bought comprised in one block, and for that purpose it was necessary that Hinton street between Bullman and Spencer streets be closed and the land forming part of Hinton street included in the block. The application upon which the order was made was begun by Beach, but was continued by the association, in whom the title was.