

MIDDLETON, J.

DECEMBER 7TH, 1914.

RE JACOBS AND TORONTO BOARD OF EDUCATION.

Appeal—Award under School Sites Act — Appeal to County Court Judge — Motion for Leave to Appeal to Appellate Division — R.S.O. 1914 ch. 277, sec. 20 (3) — Reasonable Ground—Discretion—Costs.

Motion by the land-owner, under sec. 20 (3) of the School Sites Act, R.S.O. 1914 ch. 277, for leave to appeal to a Divisional Court of the Appellate Division from the decision of a County Court Judge upon an appeal from an award of arbitrators under that Act.

G. T. Walsh, for the applicant.

E. P. Brown, for the Board of Education.

MIDDLETON, J.:—The whole controversy is about a comparatively small matter. Mr. Jacobs bought this land for \$3,200, and spent about \$200 upon it. Almost immediately the School Board expropriated, offering \$4,000. Jacobs thinks he ought to have \$4,500. The arbitrators have given \$3,900. The County Court Judge can find no ground for interference.

When the Legislature has taken away the right of appeal unless by leave, I think it is intended that the Judge applied to for leave should take the responsibility of ascertaining whether, in his opinion, any substantial reason exists for granting the indulgence of a second appeal, and that leave to appeal should not be granted merely because the applicant desires further litigation.

I have looked into this matter with some little care, and can find nothing to justify granting the leave. There is nothing exceptional in the case. It is purely a question of "how much," and I am satisfied that there is no reasonable ground for supposing that there is any error or injustice in the award.

No one can avoid sympathising with a land-owner whose land is taken from him against his will, at a price which he deems inadequate, particularly where he is saddled with a very heavy burden of costs as the result of claiming more compensation than in the result he is found entitled to. Many expropriation statutes provide that if no more is awarded than offered, each party