

right in the method adopted by him in estimating the compensation; and, besides, he had evidently overlooked a very important consideration in estimating the compensation upon that method.

The arbitrator took as the criterion the price of a single lot sold in a different locality; then made an imaginary subdivision of the lands in question into small lots, and an imaginary sale of all such lots to workmen at one-half the price of his standard; and then made a deduction of 25 per cent. from the imaginary total purchase-price of all these imaginary lots, for "slowness with which the lots would be disposed of, increased taxes to be paid during the sales, interest which would not be obtained during the sales" and "commission on the sales and other incidental expenses."

Whilst such a method may be taken into consideration in ascertaining the fair value of the lands taken, it is but evidence, and at best evidence of a most uncertain character. The market price, if there be such a price, is generally the best evidence, though not necessarily a conclusive test. Where there is a market price, all such things as are contained in the Official Arbitrator's precarious method go more or less to make up such price. Evidence of the fair selling value of property is almost always available and should be had; and, having regard to the whole evidence, a reasonable purchase-price can generally, and should be, found and given effect to; the arbitrator here adopted but one of the means, and perhaps the most uncertain one, of finding the true value; and a finding so reached ought not to stand. The prospective subdivision, as shewn by subsequent events, was not feasible, and was not a proper means of arriving at the actual value.

Much evidence shewed that it was practically impossible to have sewerage by gravitation for these lands; and so they never could be available for homes for workmen or others; and, if that be so, the arbitrator's method of ascertaining the value was altogether wrong, not useful for any proper purpose.

The appeal should be allowed, and the matter referred back to the arbitrator to be dealt with upon proper principles; no order as to costs of the appeal.