

2. That the valuation of the land by the arbitrators is extravagantly large and unjust.

3. Because the arbitrators have ordered the payment by the corporation of the city of Toronto of the sum therein mentioned forthwith, whereas by the said statute the money cannot be so made payable.

4. Because the two arbitrators who alone made the award did so without duly consulting their co-arbitrator, Alexander Manning, and had meetings at which he was not present, and of which he had no notice, and had no opportunity of being present; and in particular did not consult him as to the form of the award, nor as to the matters contained in the letter of the said Dalton, a copy of which is filed, nor did they give him notice of the said letter, nor of any meeting for executing the award;

And upon other grounds appearing in the affidavits and papers filed.

The submission was by bond, and recited that differences had arisen between the parties touching a water lot owned by Leak, across which the esplanade was built, and the claim of the corporation for the construction of the esplanade and the filling in the water lot, and the value of the land taken from Leak for the purposes of the esplanade, and the value of the strip of land between high-water mark and the top of the bank, and of the land between the former southern limit of his lot and the windmill line given, if any such, to the said John Leak, in pursuance of the acts of the provincial parliament relating to the Toronto esplanade, and the increased value of the lot by means of the said improvements; and the condition was that the parties should abide by, &c., the award of Frederick Cumberland, the arbitrator appointed by Leak, and Alexander Manning, the arbitrator nominated by the city, and John Stoughton Dennis, the third arbitrator agreed upon by both parties; so that the arbitrators, or any two of them, made and published their award in writing on or before the first day of November then next.

This submission was made a rule of court, pursuant to an agreement contained therein.

The award was made by two of the arbitrators only, *i.e.*