

Sherbrooke St. were merely a possibility and not a realized possibility. *Cedars Rapids Manufacturing Co. v. Lacoste*, 16 D.L.R. 168; [1914] A.C. 569. So far as appears none of the witnesses who deposed to values ranging from 40c. to 75c. a square foot were examined on this footing. One of them, Mr. Beausoleil, said that, subject to the "servitude," he would value the whole lot at \$1. Moreover, other properties in the locality, some of them not shewn to have been so wholly different from that of the appellants as to preclude comparison, were valued by the commissioners at the same figure, 25c. a square foot, and there are the circumstances that the property in question had been the location of a city dump, was very low, and was comparatively close to abattoirs, which the commissioners regarded as having a tendency to depreciate its value.

There is no appeal from an award such as this. The statute expressly excludes it (s. 429)—(4 Edw. VII. c. 49, s. 18). Without entertaining an appeal an award may not be set aside solely because the court is of opinion that it is too high or too low—even very considerably so—unless the disparity be so great that it is clear that the award must have been fraudulently made or that the arbitrators must have been influenced by improper or illegal considerations. The Court of King's Bench has held that neither of these grounds of invalidity has been established, and the clear case necessary to justify a reversal of its judgment, in my opinion, has not been made out.

I would merely add that if I thought it necessary to pass in detail upon the considerations that should affect the commissioners in arriving at the amount of the indemnity to which an expropriated owner is entitled under s. 421 of the Montreal city charter, I am not at all certain that where, at the time of the homologation of the plan shewing the projected improvement, he owns adjacent lands, from which the expropriated property is thereby detached, and parts with those lands in the interval before expropriation, he should not, for the purposes of the off-set of increased value of such adjacent lands provided for by that section, be in the same position as if he still held them. Why should the amount which the city has to pay for the expropriated land be increased because the owner has parted with his adjacent property since the homologation of the plan of the projected work? It would seem to be contrary to the purpose of the statute providing

CAN.
S. C.
—
ROYAL
TRUST CO.
v.
CITY OF
MONTREAL.
—
Anglin, J.