

who join in the award appealed from have proceeded upon an entirely wrong principle in estimating the value of the appellant's property and the compensation to be awarded to him.

It is not a question of farm land to be valued at so much per acre as such. Nature had provided an ideal site for the particular purpose which the appellant had in view, and which he was carrying out with great judgment, viz., for a country residence of a man of means and good taste. It appears in evidence, and it is a self-evident proposition, that if it should become necessary or desirable for the appellant to sell the property, the existence of the railway, running where it does, would be a fatal objection in the mind of the only class to which he could reasonably look to find a purchaser.

I do not think that I can add anything to the extremely able presentation, both of the law and of facts, in the opinion of Mr. Holman, K.C. (the dissenting arbitrator). I entirely agree with it, and I also think that he has made a very moderate and reasonable estimate of the compensation.

The award should, therefore, be increased to the sum found by him, viz., \$13,850, with costs of this appeal.

FEBRUARY 19TH, 1915.

*McMULLEN v. WETLAUFER.

Malicious Prosecution—Reasonable and Probable Cause—Advice of Counsel—Approval of Crown Attorney—Malice—Findings of Jury—Belief of Defendant in Guilt of Plaintiff at Time of Laying Information.

Appeal by the plaintiff from the judgment of MIDDLETON, J., 32 O.L.R. 178, ante 244.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

H. H. Dewart, K.C., and R. T. Harding, for the appellant.

T. N. Phelan, for the defendant, the respondent.

RIDDELL, J.:— . . . Upon the hearing, counsel consented that we should ask the learned trial Judge for his finding in respect of the belief of the defendant at the time of laying the in-

*To be reported in the Ontario Law Reports.