

companies and a telephone company erected or placed upon highways.

In none of these cases was the Court called upon to determine the question now before it, viz., whether in assessing land it is proper to take into consideration its special adaptability to such a use as water power block No. 2 is being put to—its use in developing a valuable water power which without it could not have been developed. It was proper, in determining the “actual value” of the block, to consider whether its value as a town lot or as agricultural land was enhanced owing to its being so situated that it was capable of being used in developing the water power which had been developed and to assess it accordingly.

Compare and apply two recent expropriation cases—Cedar Rapids Manufacturing and Power Co. v. Lacoste, [1914] A.C. 569, and Pastoral Finance Association Limited v. The Minister, ib. 1083.

The conclusion must be that the assessor and the Board rightly took into consideration the enhanced value which power block No. 2 had by reason of its adaptability for the use to which it had been put and by reason of its having been put to that use; and the application for leave to appeal must be refused. The question of the amount by which the value of the land had been enhanced was a question of fact for the Board—no appeal lies except as to matters of law: *Re Bruce Mines Limited and Town of Bruce Mines* (1910), 20 O.L.R. 315; *Re Coniagas Mines Limited and Town of Cobalt* (1910), ib. 322.

The motion should be refused with costs—it would serve no good purpose to prolong the litigation by giving leave to appeal.

GARROW, MACLAREN, and MAGEE, J.J.A., concurred.

HODGINS, J.A., also agreed in the result, but did not agree that the same principles should be applied in ascertaining assessed value as in fixing compensation value. In refusing the application, he preferred to place his decision upon the ground that the actual value in this case might properly include the advantageous position of the lot in relation to the other works. Consequently, the propriety of the amount fixed was at best a question of fact.

*Motion refused with costs.*