it, the city can, owing to want of security, practically prevent a landowner making any use of his property for an indefinite time without being under any obligation to take the land at all or to pay any damages occasioned. That is sufficiently unfavourable to the landowner without an unnecessary finding in the statute of an intention to allow the owner even eventually nothing but the value of what would be scarcely more than a bare legal title, of which, indeed, the respondent's expert witness, Beausoleil, says:—

la valeur n'est que nominale et ne dépasse pas $1, pour tout le terrain.

The second clause in par. 3 of s. 421, that, namely, providing for an offset in consideration of increased value of the immovables from which is to be detached the portion to be expropriated is not, I think, effective here because at the date of the expropriation the appellant had no other lands than those expropriated. It had already disposed of its other immovables which benefited by the increased value. If it had sold them subsequently to the expropriation, the increase in their value would have had to be set against the compensation for the land expropriated. At the time of the sale, however, the extension of Sherbrooke St. had not been made, and might never have been made. No doubt there was a probability that it would be made and the purchasers were willing to accept the possibility, still I do not see how this can affect the legal rights as between the appellant and the respondent.

I think that, from the record, two facts are established: (1) that the value of land in the locality was more than that allowed in the award; and (2) that the majority of the commissioners took into consideration the homologated plan as depreciating the value of the land expropriated.

These are substantially the findings of Cross, J., who says:—

It can be said that the proof establishes that the real value of marketable land in the locality was 60c. per foot. The award is only 25c. per foot. That great disparity is suggestive of the view that the majority of the commissioners subjected themselves to some error not merely of estimate of value but to some error in principle.

And again he says:—

The fact is that the majority of the commissioners did take into consideration the effect of the homologated plan and they would have been wrong if they had not done so.

It would be difficult to say how the commissioners arrived at their award. They seem to have been agreed at first in saying that they took into account the servitude of the road although later inclining to the contrary opinion. The principles on which