

for some distance, only returning to the Tecumseth road when well past the hotel, and in consequence did not patronise it, which resulted in direct loss of custom to the respondent.

Evidence given shewed also that the closing up of the portion of the road was a substantial injury to the respondent, because of the diversion of traffic from her hotel; and the case sought to be made on her behalf before the arbitrators was, that the market value of her property was materially injured by reason of the action complained of.

The arbitrators unanimously found that her property was injured to the extent of \$500, which sum they awarded her as a reasonable compensation.

From this award the corporation appealed on the following grounds: (1) that no portion of the respondent's land was taken or injuriously affected; (2) that the alleged damages are too remote and speculative; (3) that the nearest portion of the part of the road closed was 365 feet from the hotel, and, notwithstanding such closing, other streets equally convenient were available to those desiring to go to and from the respondent's premises; (4) that the respondent is not entitled to compensation because her lands do not abut on any portion of the street closed; (5) that the damage sustained by the respondent is no different from that sustained by the general public; (6) that the arbitrators have not distinguished between loss of profits on business of the hotel and loss in value of the property in question.

F. E. Hodgins, K.C., for the appellants.

J. H. Rodd, for the respondent.

MULOCK, C.J. (after setting out the facts as above):—Section 447 of the Municipal Act enacts: "Every council shall make to the owners or occupiers of . . . real property . . . injuriously affected by the exercise of its powers due compensation for any damages . . . necessarily resulting from the exercise of such powers . . ."

Mr. Hodgins contended that the act of the council in closing up the road . . . did not affect the respondent in any special degree, but only as one of the public. The finding of the arbitrators, however, does not support this view. They held that her property was damaged to the extent of \$500 by reason of the interference with the access thereto, which, but for the expropriation, she was entitled to enjoy.

It was also contended that, inasmuch as the respondent's land did not front or abut on any part of the closed portion of the road, her property was not "injuriously affected," within the