acquired the title of the original grantees by patent of the mines, minerals, and mining rights in this location, the surface rights in the lots in question being at the time of the applicants' acquisition vested in various purchasers thereof. Subsequently the applicants acquired the title of the purchasers.

The situation is concisely stated by the learned Chairman of the Railway and Municipal Board: "The company first bought the mineral rights and afterwards acquired the surface rights. There are about 20 houses on these lots. They are rented to workmen in the mine."

The properties were assessed by the assessor at $21,475. Upon appeal the Court of Revision reduced the amount to $17,700. The applicants, not being satisfied, appealed to the Railway and Municipal Board, as provided by sec. 51 of the Ontario Railway and Municipal Board Act, 1906, and the appeal was dismissed.

On behalf of the town of Cobalt objection was taken before the Board, and again upon the application to this Court, that the appeal was not competent, on the ground that to entitle a person to appeal to the Railway and Municipal Board under the combined effect of sec. 51 of the Ontario Railway and Municipal Board Act, 1906, and sec. 76 of the Assessment Act, the amount of the assessment fixed by the Court of Revision on one or more of such person's properties must aggregate $20,000.

I am of opinion that the Board, in holding that the amount of the assessment made by the assessor is the determining factor, took the correct view. Looking at the various provisions of the Assessment Act dealing with appeals, it seems apparent that, even upon the final appeal, whether to a County Court Judge under sec. 68 et seq., or to the Board under sec. 76, as affected by sec. 51 of the Ontario Railway and Municipal Board Act, 1906, the whole question is open, and that it is competent to the tribunal not merely to reduce the amount fixed by the Court of Revision, but to restore or perhaps increase the amount fixed by the assessor: see sec. 65 (especially sub-secs. 16, 19, 21, and 22), 66, 68, 69, 70, 75, and 76 of the Assessment Act, and sec. 51 (2) of the Ontario Railway and Municipal Board Act, 1906.

The right of a person whose properties, notwithstanding an appeal to the Court of Revision, remains assessed at an aggregate of $20,000, to avail himself of the provisions of sec. 76 and so obtain a different tribunal to that open to him under sec. 68, is undoubted. But is there any good reason why, where from the original action of the assessor the properties are still exposed to the possibility of the final assessment amounting to or even exceeding $20,000, the person so assessed should not have the same right?