

CAN.

S. C.

ROYAL
TRUST CO.
v.
CITY OF
MONTREAL.

Anglin, J.

estate subdivision plan and the description of the Larivière and Messier lots as being bounded by Sherbrooke St.; and they would have been wrong if they had not done so.

He reaches this conclusion apparently because of what he regards as the otherwise unexplained and inexplicable disparity between the 25c. a square foot allowed to the appellants as compensation and the 60c. a square foot which he says the proof establishes was the real value of marketable land in the locality.

On the other hand, the late Chief Justice of the Court of King's Bench (Sir Horace Archambeault) and Carroll, J., accepted the testimony given by each of the three commissioners who constituted the majority of the board that they had made no deduction on account of what they term "the servitude," 26 Que. K.B. 557, 565, 568, Recorder Geoffrion, chairman of the board, deposed that in taking this course the majority of the commissioners acted on the opinion of a Judge of the Superior Court obtained and communicated to them by him; and the two other commissioners confirmed this statement. Trenholme, J., the remaining member of the court, delivered no written opinion, but the formal judgment would seem to indicate that, on this point, he agreed with the Chief Justice and Carroll, J., rather than with Cross, J. It is erroneously stated in the official report that Pelletier, J., sat as a member of the court.

After careful consideration of the entire record, notwithstanding some discrepancies, and the obviously fidgetty scrupulosity of Recorder Geoffrion, I have not found sufficient reason for disbelieving the commissioners' testimony or doubting its accuracy, corroborated as it is by that of Mr. Senecal, the secretary of the board. Still less am I prepared to hold that upon this question of fact the Court of King's Bench clearly erred in its appreciation of the evidence. The mere disparity referred to by Cross, J., does not warrant such a conclusion. Moreover, I am not satisfied that the actual value of lands in the locality, "excluding any advantage due to the carrying out of the scheme for which the property (was) compulsorily acquired, *Fraser v. City of Fraserville*, 34 D.L.R. 211; [1917] A.C. 187, 194," was 60c. a square foot. Mr. Findlay valued the land in question at 40c. a square foot free from all servitudes and 20c. subject to the servitudes discussed, and there is no evidence how much less than the figures put upon it by the several expert witnesses it would be worth if the extension of