

There are only 5 lots on each side of the street to the west of the railway crossing, and only 7 lots on each side of the street to the east of the crossing.

There may be the ordinary visiting, but comparatively little business and but few business transactions.

There is really very little inconvenience, but there is some, that plaintiffs have suffered.

A person desiring to go from St. David street on one side of the railway crossing, to St. David street on the other, would require to go, at most, a distance made greater by the closing, of less than 400 feet.

Those damages are recoverable by reason of the defendants being wrong-doers, the work being an unauthorised and illegal work.

It is clear enough that when what is complained of is a work properly authorised, the claim must be for damages to an interest in land injuriously affected by the work.

In that case there must be damage, not temporary but permanent, affecting the house or land itself—a mere temporary inconvenience will not be sufficient to warrant recovery.

I am of opinion that there has been a small amount of damage recoverable because the work was unauthorised; and I am also of opinion that the plaintiffs are not wholly limited to these; but are entitled to damages even if work legally authorised.

The property on St. David street was injuriously affected by the closing of that street.

That street, such as it was, from end to end, was to those living upon it, an open street, a natural outlet.

The houses of the plaintiffs, now shut in, are of less value than before.

These lands are “physically deteriorated”—using these words for want of better—by reason of the complete closing of the street.

It is a case, differing only in degree, similar to that of raising or lowering the grade of the street without entering upon the adjacent property.

This is not the case of temporary inconvenience by temporary obstruction; but it is a case of blocking in the property by a permanent high embankment, so close to it that the property on the street of any one of the plaintiffs is of less saleable value than before the closing of the street.