of the rights of which he is deprived on confirmation of the plan. The loss may be temporary only, because the city is not bound to proceed with the projected opening, etc.; it may, by altering or modifying the homologated plan with the sanction of the court (s. 415), abandon the project without incurring liability for indemnity (s. 417). The loss may be permanent if the city proceeds with the project, necessitating the expropriation of the land. Thereupon, as already stated, the case ceases to be *merely* one of confirmation of the plan of a projected improvement, and the owner becomes entitled to indemnity not by reason of such confirmation, but because his land is taken from him and the statute says that his indemnity shall include its actual value. The suspension under s. 417 is then terminated. That confirmation of the plan should produce only a suspension of the owner's claim for indemnity in the event of ultimate expropriation seems very clearly to be the purpose of the word "merely" (simplement) in s. 417, and—I say it with all becoming respect—I cannot but believe that the significance of this word has escaped the attention of those who have taken the contrary view.

I am, therefore, of the opinion that the commissioners in fixing the owner's compensation, were not entitled to make any deduction from the actual value of the land taken in respect of the burden imposed upon it by the confirmation of the plan in 1887—that it was the actual value of the land for which they were to award compensation and not merely the value of the owner's interest therein subject to the rights of the municipality and the public acquired under the homologation.

Neither can I subscribe to the contention that by selling adjacent lands as fronting on Sherbrooke St., then a projected highway, and under the statute to "be deemed to be a public highway," the owner necessarily subjected the part of his property afterwards expropriated for that street to a servitude in favour of the purchasers and their assigns in respect of which the commissioners were required or entitled to make a deduction from its actual value in ascertaining the amount of the indemnity payable to the owner on expropriation.

Did the commissioners in fact make any such deduction? Cross, J., says:—

The fact is that the majority of the commissioners did take into consideration the effect of the "homologated" plan, the making of the Sheppard