

wording of the award, that the arbitrator intended in the second item to include all that tends to depreciate the value of the parcel retained by the claimant, what is there left capable of being reduced to a money basis? Nothing that I can see. The claimant may not like a wide street, or a wide pavement, or she may like a shady street or a street with boulevards or without them; but all these things, which apparently from the arbitrator's judgment are the basis of the allowance in question, have really nothing to do with the matter, in my opinion. Nothing has been altered so far by the city. The wide pavement and the other matters are all in the future, and all seem to involve the same principle as the street railway question. If it was right to disallow a claim in respect of that very palpable, even if ill-founded, objection, it was, I think, with deference, quite illogical to allow for what in the future the city may do in changing the general character of the street. As I have before said, the widened part for which the city pays becomes a part of the highway for all purposes. And no one can lawfully complain of the changing of a sidewalk or the widening of a pavement or the removal of a tree from the highway so under civic control.

I would, therefore, allow the appeal of the city with costs, and dismiss the cross-appeal with costs.

MACLAREN, J.A., concurred, for reasons stated in writing.

MOSS, C.J.O., MAGEE, J.A., and LENNOX, J., also concurred.

Appeal allowed and cross-appeal dismissed.

HIGH COURT OF JUSTICE.

BOYD, C., IN CHAMBERS.

SEPTEMBER 24TH, 1912.

DICK & SONS v. STANDARD UNDERGROUND CABLE CO.

Stay of Proceedings—Action by Contractors against Owners—Breach of Contract—Claim for Damages—Prior Proceeding by Mechanics' Lien-holder—Contractors not Asserting Lien—Mechanics' Lien Act, 10 Edw. VII. ch. 69, sec. 37.

Appeal by the plaintiffs from an order of a Local Judge perpetually staying this action, on the ground that the matters in controversy therein were before the Court in a proceeding to enforce a mechanics' lien.