

CAN.
S. C.
ROYAL
TRUST CO.
v.
CITY OF
MONTREAL.
Anglin, J.

it subsequently to such confirmation (s. 418). "Nor," says s. 417, "shall the city hereafter be liable for any indemnity or damages whatever by reason merely of the confirmation of such plan or any alteration or modification thereof or addition thereto."

The only offset to the very serious interference with and deprivation of his rights thus authorised is that the property owner has by recent legislation (s. 419 (a), enacted by 7 Edw. VII. c. 63, s. 30) been relieved from liability for taxes, but only if the expropriated land be vacant, and that he may make such use of his land as is practicable without building upon or otherwise improving it except at the risk of losing his expenditure, and subject to the rights of the public in it as a highway. It is obvious that so burdened the interest of the owner in the land would be of little, if any, value, and that if his indemnity on its ultimate expropriation should be confined to the value of an interest so depreciated, he will, in effect, have been deprived of his property without compensation. That such a result was intended by the legislature is most improbable.

The interval between the homologation of a plan shewing a projected highway or highway extension, and the expropriation of the land required for it, may be prolonged for many years. During that period the owner undoubtedly must submit to the hardship of the burden placed upon him by the statute as the result of confirmation of the plan without compensation because the legislature has expressly negatived his right to "any indemnity or damages whatever by reason *merely (simplement)* of the confirmation of the plan."

But the opening, widening or extension of a street cannot be actually made without expropriation under the provisions of the charter (s. 419), and when that takes place the case is no longer one *merely (simplement)* of confirmation of a plan. The land itself must then be acquired, and the statute says that the owner's indemnity "shall include the *actual value (la valeur réelle)* of the immovable, part of immovable or servitude expropriated and the damages resulting from the expropriation (s. 421)." Applying to the two provisions which I have quoted from ss. 417 and 421 the rule of interpretation above indicated and harmonizing their construction as far as their language permits with art. 407 of the Civil Code, I think s. 417 should be read as suspending the right of the owner to compensation for the loss, temporary or permanent,