

Fletcher Moulton, L.J., at page 29, says that it must be estimated on "the value to him and not on the value to the purchaser."

And at page 31: "The decided cases seem to me to have hit upon the correct solution of this problem. To my mind they lay down the principle that where the special value exists only for the particular purchaser who has obtained powers of compulsory purchase, it cannot be taken into consideration in fixing the price, because to do otherwise would be to allow the existence of the scheme to enhance the value of the lands to be purchased under it."

Cripp's Law of Compensation (5th ed., 1905), at page 117, puts it thus: "An owner is entitled to have the price of his land fixed in reference to the probable use which will give him the best return, and the term 'special adaptability' only denotes that the probable use from which the best return may be expected is special in its character."

Cases such as *Paint v. The Queen* (2 Ex. C. R. 149, affirmed 18 S. C. R. 718), merely affirm the proposition that what has to be arrived at is the market value having regard to the potential or prospective capabilities. Land used as a farm within a short distance from a large city may be expropriated. If it were merely valued as farm lands the owner would lose the added value of the almost certain possibility of within a short period the lands coming into the market as city lots.

Had the suppliants in this case owned the water lot as well as the beach and merely acquired assent to the erection of a wharf and interference with navigation, the case might be different.

The Crown in this case owns the land covered with water opposite the land expropriated, and has exercised its right to construct a wharf.

To allow the contention of the suppliants would be to allow the value to the Crown, and not to value the property at its proper value to the owner. It is said that in any event the minimum value should be \$900 as recommended by Locke. I do not agree. It is quite evident that Locke had in view the gain to the Crown. It would be an absurdity to allow such a sum for one-fourth of an acre of nearly useless land, if my view of the law is correct. If I am in error then I should say \$900 is the maximum amount. The Crown refused to accept Locke's recommendation.