

is no ground for the contention that they acted upon a wrong principle.

If they did not, they omitted doing what they should have done in that respect; but the appellants have no ground of complaint on that score, as the omission would be in their favour.

I am unable to find that the arbitrators acted upon any wrong principle, and I would, therefore, agreeing, as I do, with the reasons for his judgment given by Cross, J., and with the conclusions of the Court of King's Bench, dismiss the appeal with costs.

INDINGTON, J.:—I think this appeal should be dismissed with costs.

ANGLIN, J.:—I agree with the Judges of the Court of King's Bench that the award of the expropriation commissioners cannot be successfully attacked upon the grounds of alleged irregularities in the antecedent proceedings preferred by the appellants. Whether the provisions of the charter of the City of Montreal (62 Vict. c. 58, and amendments) required or justified the commissioners in fixing the amount of compensation for the land expropriated to make a deduction from its actual value on account of rights or easements in favour of the municipality and the public to which it was subjected by the confirmation, in 1887, of a plan for the extension of Sherbrooke St., and whether they have in fact made such a deduction are, in my opinion, the only debatable questions. Both of them—the one a question of law, the other of fact—require careful consideration.

The principle of natural law which underlies art. 407 of the Civil Code: "No one can be compelled to give up his property, except for public utility and in consideration of a just indemnity previously paid," is likewise the foundation of the well-established rule of statutory construction thus stated by Farwell, J., in *Earl of Lonsdale v. Lowther*, [1900] 2 Ch. 687, at 696:—

It is a sound rule of construction not to construe an Act of Parliament as interfering with or injuring persons' rights without compensation, unless one is obliged so to construe it: see *per* Lord Fisher in *Attorney-General v. Horner* (1884), 14 Q.B.D. 245, 257.

The city charter declares that streets and highways indicated and projected upon a plan or map duly confirmed by the Superior Court shall be deemed to be highways (s. 411). Although the city is not bound to carry into effect any projected street opening, widening, or extension so confirmed (s. 417), the owner is disentitled to indemnity, should the city subsequently expropriate the land, for any buildings or improvements constructed or made upon

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S. C.

ROYAL
TRUST CO.
v.
CITY OF
MONTREAL.

Davies, J.

Idington, J.

Anglin, J.