

Per OSLER, and MACLENNAN, JJ.A., that the City Council had a discretion whether or not to adopt the contracts and provide the purchase money.

In the result the judgment of ROSE, J., dismissing the actions, was affirmed.

Robinson, Q.C., and *McTavish*, Q.C., for the appellants.

Arnoldi, Q.C., and *Chrysler*, Q.C., for the respondents.

Latchford, for the Park Commissioners.

From Meredith, J.]

[May 20.

IN RE SMALL AND ST. LAWRENCE FOUNDRY COMPANY.

Arbitration and award—Revocation of submission—Rejection of evidence—Rentals of adjacent properties.

It is not sufficient ground for the revocation of a submission to arbitration to fix the renewal rental of a block of land bounded by streets that the arbitrators decline to receive evidence of the gross and net rentals derived from properties on the other side of one of the streets.

Judgment of MEREDITH, J., affirmed, MACLENNAN, J.A., dissenting.

McCarthy, Q.C., and *R. B. Henderson*, for the appellants.

A. Hoskin, Q.C., and *Thomson*, Q.C., for the respondents.

HIGH COURT OF JUSTICE.

ARMOUR, C.J., FALCONBRIDGE, J. }
STREET, J. }

[January 28.

IN RE COHEN'S BAIL.

Criminal procedure—Bail—Estreating the recognizance—Next Court of competent jurisdiction.

Where a recognizance entered into before the magistrate committing the prisoner for trial was conditioned for the prisoner to appear at the next Court of competent jurisdiction to be holden at Toronto, and the next Court was the sittings of the Court of Oyer and Terminer for the County of York, commencing on April 30th, 1896, but no indictment against the prisoner was then preferred, but the information, depositions and recognizance were transmitted to the Sessions of the Peace for the County of York, commencing on May 14th, 1895, where an indictment having been preferred and a true bill found, and neither the prisoner nor his bail appearing, the recognizance was on the last day of the sessions forfeited and the surety arrested, the writ of fieri facias having been returned nulla bona.

Held, that the order forfeiting the recognizance, the estreat roll and the writ of fieri facias and capias must be quashed, and all proceedings thereon stayed.

G. G. S. Lindsay, for the surety.

J. R. Cartwright, Q.C., for the Crown.