IN THE MATTER OF THE PETITION OF RIGHT OF

PIERRE EDOUARD EMILE BELANGER,

1917
June 28.

SUPPLIANT,

AND

HIS MAJESTY THE KING,

RESPONDENT.

Public lands—Beach—Harbour of Quebec—Validity of grant—Expropriation—Compensation—Value.

The right to alienate part of the public domain by the King of France has always been recognized even subsequent to the Edict of Moulins. A title to certain beach lots, in Quebec, founded on a grant from Louis XIV., is perfectly good and valid, and cannot be attacked by the Crown. Furthermore, such lands do not form part of the Harbour of Quebec.

2. In estimating compensation for the expropriation of land by the Crown, the value of the property for expropriation purposes cannot be taken as a basis; the value of the property to the owner, not to the party expropriating it, is to be considered.

PETITION OF RIGHT to recover compensation for the expropriation of land by the Crown.

Tried before the Honourable Mr. Justice Audette, at Quebec, September 13, 16, 1916; March 26, 27, 28, 1917.

G. G. Stuart, K.C., *A. Marchand*, K.C., and *Alleyn Taschereau*, K.C., for suppliant.

A. Bernier, K.C., and *V. de Billy*, for respondent.

AUDETTE, J. (June 28, 1917) delivered judgment.

The suppliant, by his petition of right, seeks to recover the sum of $800,085.65, as compensation for

1917

BELANGER
v.
THE KING.

Reasons for Judgment.

the value of certain lands expropriated from him by the Crown, on January 13th, 1913, for the purposes of a public work of Canada, namely, for the construction, maintenance and repair of the Harbour of Quebec, and the improvement of navigation in the River St. Charles, at Quebec.

The lands taken are composed of two different lots, to wit: Of part of lot 513, containing an area of 295,652 square feet, and the whole of lot 560, containing an area of 1,863,599 square feet, making a total of 2,159,251 square feet, for which the suppliant claims $800,085.65,—namely, 50c. a square foot for lot 513 and 35c. a square foot for lot 560.

The Crown denies the suppliant's title and makes no offer in money by its statement in defence; but declares that, if the suppliant proves title, a reasonable sum, ascertained under the provisions of the *Expropriation Act,* should be paid him for the value of such land and damages. The respondent further contends, *inter alia,* that the original title from the Crown never transferred the property in question to the predecessor in title of the suppliant and that the lands in question form still part of the public domain. Furthermore, the Crown avers by the statement of defence that these beach lots form part of the Quebec Harbour, and that as such they are vested in His Majesty in the right of the Dominion of Canada.

Upon reading in the statement of defence, an allegation contending that the lands in question formed part of the Crown lands of the Province of Quebec, I made an order directing that a copy of the pleadings herein be served upon the Attorney-General of the Province of Quebec, to allow him to intervene in the present case, if he saw fit. The pleadings

were served, and the Attorney-General of the Province of Quebec did not intervene or ask to be added a party to the present proceedings.

The original titles of concession of the lands in question go back to one of the first French regimes of our Colony.

The first title consists in letters-patent issued on March 10th, 1626, by Henri de Levy, Duc de Vantadour, Lieutenant-General de Sa Majeste le Roi de France au Gouvernement de Languedoc, Vice-Roy de la Nouvelle France, whereby the following piece of land, called Seigneurie de Notre Dame des Anges, was granted to the Jesuits, viz: "La quantite de "quatre lieues de terre tirant vers les montagnes "de l'ouest ou environ, scitues partye sur la riviere "St-Charles, partye sur le grand fleuve St-Laurent, "d'une part bornees de la riviere nomme Ste-Marie, "qui se decharge dans le susdid grand fleuve de St-"Laurent, et de l'autre part, en montant la riviere "St-Charles, du second ruisseau qui est au-dessus "de la petite riviere dite communement Lairet, les-"quels ruisseaux et la dite petite riviere Lairet, se "perdent dans la dite riviere St-Charles: item nous "leur avons donne et donnons comme une pointe de "terre avec tous les bois et *prairies* et *toutes autres* "*choses* contenues dans la dite pointe scittuee, vis-"a-vis de la dite riviere Lairet, de l'autre cote de la "riviere St-Charles, montant vers les Peres Recol-"lets d'un coste et de l'autre coute descendant dans "le grand fleuve."

Subsequently thereto, by an Edict of the King of France, all concessions made were revoked, with the object of transferring all such titles in La Compagnie de la Nouvelle-France. On January 15th, 1637, however, la Compagnie de la Nouvelle-France

granted to the Jesuits the lands above described, confirming thereby the first grant of the Duc of Vantadour, including *"les bois, prés, lacs, etc."*

In compliance with an *Ordonnance* of January 12th, 1652, with respect to "la confection d'un pa-"pier terrier contenant le denombrement des terres "mouvantes, tant en fief qu'en roture," Monsieur de Lauzon, conseiller ordinaire du Roy en ses conseils d'Etat et prive, Gouverneur et Lieutenant-General pour sa Majeste en la Nouvelle-France, etendue du fleuve St.-Laurent, did on January 17th, 1652, again grant and confirm the previous grants of the lands in question, "mesme les prez la mer couvre et decouvre a chaque maree."

Then under a Royal Édit et Ordonnance, being an Arret du Conseil d'etat du Roi, bearing date at St. Germain en-Laye, May 12th, 1678, the King of France, Louis XIV., granted total *amortissement* of the lands referred to in the above grants, with the object of removing any doubt as to the title granted the Jesuits by the Duc de Vantadour, la Compagnie de la Nouvelle-France and le Sieur de Lauzon. This deed of *amortissement,* which was registered at Quebec, on the last day of October, 1679, also mentions in the descriptions of the lands, "les pres que la mer couvre et de couvre a chaque maree."

Now, it is contended by the respondent that all of these grants did not divest the Crown of its ownership in these foreshores and beds of navigable rivers which form part of the public domain, and which cannot be alienated. And counsel at bar for the respondent rests his contention upon l'Ordonnance de Moulin, of February, 1566, by Charles IX., which is to be found in the Recueil d'edits at Ordonnances Royaux, by Neron et Girard, at p. 1999,

whereby it is forbidden to alienate the public domain, except under the circumstances therein mentioned, and the present case does not come within such exception.

There can be doubt that this doctrine has been the basis and foundation of the old public law in France. It was supported by the authors, and maintained by the courts down to the time of the Revolution, when the law governing the public domain was subjected to material modification. However, the old doctrine was followed by the Code Napoleon, Art. 538, which afterward found its way in our Art. 400, C.C. P.Q. This law, however, was necessarily subject to flexible modifications under the unlimited powers of the King.

Then it must be said that a number of Édits et Ordonnances passed subsequent to the Ordonnance de Moulins, were cited by Mr. Smith, of counsel for the suppliant, whereby parts of the public domain were allowed to be sold and alienated, and in some of these the grant goes so far as to say that it thereby derogates to that effect, as much as need be, from all the laws, *ordonnances et coutumes* to the contrary.

And this right to alienate part of the public domain by the King of France has always been recognized by the courts of France, even subsequent to the Édit de Moulins.[1]

Authorities have also been cited by the suppliant to the effect that this right has been recognized in France since the Revolution.[2]

[1] Merlin. Questions de droit. Vol. 7 Vo. Rivage de la mer. Edits et Ordonnances, Vol. 3, p. 122. Pieces et documents relatifs a la Tenure Seigneuriale, Vol. II., pp. 126, 128, 567.

[2] Sirey (Perodique) 1841, I, p. 260. Dalloz, Vo. Domaine Public, 29, 30. Dalloz, Vo. Organization Maritime, 751.

1917
BELANGER
v.
THE KING.
Reasons for Judgment.

And after the cession many laws were passed in Canada recognizing the validity of the grants made before 1760.[1]

After the Revolution, the authors assert, that all these concessions became null under the provision of a law of l'Assemblee Nationale Constituante of 1789, which abolished all these grants. These grants were then abolishd by a new law because they were considered good legal grants, until such new law would decide to the contrary. But all French legislation of 1789, in fact all legislation since 1760, when Canada passed under the British flag, have no effect in Canada, not any more than the Code Napoleon has.

It is, indeed, a somewhat strange proposition for the Crown to take in denying the power of the King of France at the time the grant was made. No one, says Mr. Migneault,[2] would dream of contesting the original title of concessions and it is the ancientness of these titles which dispensed them from registration.

However, to properly appreciate the grants in question, and more especially the last one, which covers them all, and is under the signature and seal of the great King Louis XIV., one must go back to that heroic period. It was the period of great and lofty politics, and when justice resided in the acts of the Prince, and where there was no other justice than the Prince's justice. The King at that time was all power. He could one day legislate by such Edit and Ordonnance as he saw fit, and the following day he could, at his pleasure, derogate therefrom by another Édit and Ordonnance. He was the

1 47 Geo. III, ch. 12; 4 Geo. IV, ch. 17.
2 Droit Civil Canadien, Vol. 9, p. 195.

source and foundation of power; and, indeed, well he knew he was possessed of this absolute power, when the famous words, said to have fallen from his lips, were pronounced by him, *"L'Etat, c'est moi."* He did then mark, as if with the engraver's tool, upon the table of the laws of France, the very character of his power. The monarchy existing in France in the 17th century was a royal monarchy and not a seignorial monarchy and the monarchs wielded sovereign power, independent of les etats de la nation.[1]

Even if the will of the King of France, either by special grant or by general edicts, did clash with the edicts of his predecessors on the throne, there was no way to reproach him from a legal standpoint, whilst he might perhaps be criticized from a political view. The King was the sovereign master of the kingdom in an absolute and unlimited monarchy. Parliament during his reign even became nothing but a court of justice losing its right of *remonstrance.*

The Seignorial Court Created under 18 Vic., ch. 3, whose great weight and authority, to which an almost authoritative sanction has been given by statute, commanding also the highest respect by reason of the composition of the tribunal, have passed upon the very point in question, recognizing the validity of the seignorial titles from the King of France. Answering the 27th question submitted to them, that court answered it as follows, to wit:

"3. Quant aux droits des Seigneurs sur les greves "des fleuves et rivieres navigables; dans ceux de "ces fleuves et rivieres qui etaient sujets au flux et "reflux de la mer, ces droits, sur l'espace couvert et "decouvert par les marees, resultaient d'un octroi "expres dans leurs titres; et, sans un tel octroi,

[1] Furgole 10.

1917

BELANGER v. THE KING.

Reasons for Judgment.

"s'etendaient jusqu'a la ligne de haute maree seule-"ment.

"4. Les seigneurs avaient le droit de percevoir "des profits des lods et ventes sur les mutations des "greves situees entre haute et basse maree sur le "fleuve St-Laurent, ou dans les autres rivieres "navigables, lors qu'ayant droit a ces greves par "leurs titres, ainsi qu'il a ete dit, ils les avaient "concedees, et ce, dans les memes cas, ou ces profits "seraient accrus sur d'autres ventes. (See Seig-"norial Court Decisions, p. 69a)."

Then the Act of Commutation granted to the suppliant or his predecessors in title, together with the receipts for the rents and seignorial dues, or of their commuted capital, have recognized his right of ownership and made his title incommutable. See 3 Geo. IV., ch. 110 (Imp.), secs. 31 & 32 Vic., ch. 42; and Revised Statutes P. Q. 1909, 7277, 7278, 7282.

These lands which had been granted to the Jesuits and which still belonged to the Jesuits in 1800 were then confiscated by the British Crown.

Then in 1838 the administration of the Jesuits Estates was confided to Commissioner Stewart, but this commissioner had nothing to do with the lands which had already left the hands of the Jesuits.

Moreover, the Jesuits' Estates, under Art. 1587, of the Revised Statutes, P.Q., 1909, have been declared to be in the control of the Department of Lands and Forests. Therefore, the original title has been recognized, and all grants, deeds and titles given by the department, or those acting under it, must be considered good and valid.

See also Journals of the Legislative Assembly, 1824-25, Appendix "Y".

Commissioner Stewart has granted and sold some of the land from the Jesuits' Estate to the Hotel-Dieu, who in turn sold to the suppliant or his predecessor in title.

I hereby find, following the decision of the Seignorial Court, and for the reasons above mentioned, that the original grant from Louis XIV., as well as the other three primordial grants, constitute a good title with full force and effect. And I further find that all titles, deeds or grants made by Commissioner Stewart, who was invested with full power, are also good and effective titles, and more especially after the Crown has taken the rents and revenues derived from such grants, waiving thereby the formality of the deed. *Peterson v. The Queen.*[1]

Then with the object of removing all doubts, the Statute of 6 Geo. V., ch. 17, passed in 1916, with retroactive effect, has positively declared that the Crown has the right and power to alienate the beds and banks of navigable rivers and lakes, the bed of the sea, the sea-shore and land reclaimed from the sea, comprised within the said territory and forming part of the public domain. See also *Commrs. Havre Quebec v. Turgeon and Attorney-General, P.Q.*, decided June 24th, 1910—Unreported. This Act removes all doubt, if any could exist, and makes it clear that all previous grants, whatever may have been the system of government, are good and have full force and effect.

Only a few words need be said with respect to the contention that these lands formed part of the Harbour of Quebec, and thus became vested in His Majesty, as representing the Dominion of Canada. By sec. 2 of 22 Vict., ch. 32, an Act to provide for the

[1] 2 Can. Ex. 67.

improvement and management of the Harbour of Quebec, the lands forming part of the Jesuits' Estates are excluded from the harbour. By the same Act, the right of all the riparian proprietors are further duly saved and recognized. See also 62-63 Vict. ch. 34, sec. 6, sub-sec. A to sub-sec. 2 thereof, whereby acquired rights are saved and acknowledged. Therefore the lands in question do not form part of the Harbour of Quebec.

Having disposed of the two great objections raised against the suppliant's title, it becomes unnecessary to enter here into the long catena of title-deeds under which the suppliant claims. It will be sufficient to find the suppliant has proven his title, and is entitled to recover the value of the land expropriated from him.

COMPENSATION.

Coming now to the question of compensation, a summary review of the evidence on the question of value becomes of interest.

On behalf of the suppliant the following witnesses were heard upon the question of value: C. E. Taschereau, Edmond Giroux, Joseph Collier, Malcolm J. Mooney and Eugene Lamontagne.

C. E. Taschereau. This witness prefaces his valuation by citing a number of sales, at Limoilou, at figures ranging from 64 cents to $2.27, but of small building lots varying in size from 40 and 30 feet by 60 feet. He also cites a number of other sales, mostly on *terra firma,* but with the exception of lot 514, these sales are more or less apposite. He relies, however, on the sale of lot 514, at 23 cents, to the Government in June, 1914. He further cites sales

on the Quebec side of the River St. Charles, and after stating that the lands in question may be used for wharves, warehouses, etc., he values, on January 13th, 1913, lot 513 at 35 cents and lot 560 at 30 cents a square foot, making a total sum of $662,557.90. Lot 560 is a vacant lot, without wharf, upon which there was no commercial activity. Filling would be necessary on lot 513 before it could be used for building purposes. He considers that the public work now being constructed has enhanced the value of this property ever since the works have been decided.

Edmond Giroux, between 1911 and 1912, held for 6 months an option on lot 514, at 22½ cents, for the Canadian Northern. However, the option was not exercised, and he says he would have recommended to renew it at 24 cents and at even 30 cents.

He values lots 513 and 560 in January, 1913, at 25 to 30 cents a square foot. He contends that of lot 513 about one-third or one-half is land and the balance foreshore; and that of lot 560, one-third is land and two-thirds are covered by ordinary tides—but that in the usual monthly high tides the whole of lot 560 is covered by water.

He places a value on the shore of Honore Lortie at one to one and a half cents, the price paid by Dussault & Turgeon.

Joseph Collier states that with the development of the St. Charles River these lots 513 and 560 will acquire a great value. He considers the front part, the water front, of more value than the rear part of the lot, and values lot 513, for 300 feet in depth from the water front, at 60 cents and the back at 25 cents. Lot 560—the front part for 300 feet at 45 cents and the back or balance at 20 cents. That

1917

BELANGER v. THE KING.

Reasons for Judgment.

would represent $597,600.00 for the two lots. He took into consideration that the river would be dug, and that the depth of the river would be increased.

Malcolm J. Mooney contends that the land in question would be useful for the development of wharves, shipping, pulp and iron industry, and values lot 513 at 40 cents a foot, and lot 560 at 30 cents.

Eugene Lamontagne states that this property could be used for industrial purposes, lumber business, mill and railway yard, and values lots 513 and 560 at 30 and 35 cents a square foot.

The suppliant has also produced a number of deeds of sales of building lots by the Quebec Land Company, and witness Lefebvre was also heard in respect of the several options obtained in connection with lot No. 514, which was finally bought by the Government at 23 cents. It is true the Government did purchase this lot 514, in June, 1914, at 23 cents a foot; but under such circumstances that that will take that transaction out of the ordinary course of business, and prevent one using it as a criterion. Indeed, as will appear partly by the evidence of witness Lefebvre and by the case now pending on appeal to the Supreme Court of Canada from this court, it having become known that 514 was required by the Crown, speculators got hold of it,—option after option, linking into one another, and even under fictitious names, were executed, with the object of inflating the price of this lot 514. The Crown, through its officers under the circumstances, did not wish to allow the property to pass into other hands, went over to the owners, bought the property in face of this skein of options, and undertook to indemnify the owners in case they would be troubled

by the parties to whom they had consented these options—as it will appear from the deed filed of record as Exhibit No. 78. Visionary wealth at the expense of the Crown was in that transaction seen, but not realized; but the Crown's hand was then forced and the property had to be bought at these high figures.

The suppliant, as will appear by his testimony and Exhibit "N," has paid the sum of $18,165.32 for these two lots 513 and 560,—with still the sum of $4,200 unpaid, as representing the capital of t rent due the Community of the Hotel-Dieu. He has received in revenues from these two lots since the 18th January, 1901, the sum of $1,224.25, of which $924.50 was from lot 560, but with $200 still outstanding, and $299.75 from lot 513. The revenues from lot 560 were pasturage and from lot 513 from the rent of a small building, with no new erection or improvement, and the taxes amounted to more than the revenues.

On behalf of the Crown, the following witnesses were heard on the question of value: J. Arthur LaRue, Joseph G. Couture, H. Octave Roy, and Joseph A. Dumontier.

J. Arthur LaRue says that to his knowledge lot 560 was never made any use of for 20 to 25 years; that it is not advantageous and has not much value. He says lot 513 is of more value because it is smaller and of easier access. At the time of the expropriation, these properties had not much value, but for the purpose of public utility he values lot 513 at 16 cents a square foot, and lot 560 at 10 cents a square foot. Of lot 560 about one-fifth is land, which he values at 30 cents a square foot, and the balance, which is beach property, he values at 5 cents a foot. Of lot 513, one-third is solid ground, which he values

1917
BELANGER
v.
THE KING.
Reasons for Judgment.

at 35 cents, and the balance he values at 6 cents. He cites the Nesbitt sale on the 14th October, 1912, bei· parts of lots 515, 546, and 594, with stone and brick buildings erected thereon, at 20 cents a foot, including buildings. In September, 1912, Lortie sold to Park St. Charles lot 586, fronting on Beauport road, at 8½ cents. He mentioned a number of other sales, but the most apposite is the Nesbitt property.

Lot 560 is entirely submerged in high tides.

Joseph G. Couture values lot 513 at 9 to 10 cents and lot 560 at 10 cents. For a very long time these lands were idle and unoccupied. He says lot 513 is not worth anything for building purposes. Property divided into building lots has gone up, but not industrial properties.

J. H. Octave Roy values 513 at 15 cents and 560 at 10 cents. He sold the Nesbitt property, composed of between 150,000 to 160,000 feet, with stone building of two or three storeys, large building—comprising a large brick chimney for factory—and one other brick building, near the Beauport road, for $30,000.

Joseph A. Dumontier values 513 at 15 to 18 cents and 560 at 10 to 15 cents,—citing the sale of Dussault & Turgeon, of 29th February, 1909, for lots 583 and 582, comprising a beach lot of 67 arpents—Exhibit "L."

From the evidence of witness Decary, the Superintendent Engineer of the Public Works Department for Quebec, it appears there are tides at Quebec of 25 to 26 feet, and that a tide 18 feet will entirely submerge the two lots in question. The locks or dams are being built on 560.

The lands in question were acquired by the suppliant for the sum of $18,165.32, and were practi-

cally yielding no revenue, save the renting of one house on lot 513, and pasture on lot 560. These lots lie in the estuary of the River St. Charles, and are nothing but a stretch of muddy soil upon which, in the case of 560, some marine grass grows, upon which cattle may feed; but the land is entirely covered by water at high tide, and the lot has been practically idle and no use has been made of it for years and years. Wharves may be built upon the same, as wharves may be built in fields, but it has no access to deep water, except to the height of the water brought in by the tide. Lot No. 513 is impracticable for building purposes. It is a beach lot. Retaining walls and fillings would have to be resorted to. Some of the witnesses contend that lot 560 might be used as a railway yard. Is it, indeed, conceivable that a railway could afford to spend thousands and thousands of dollars in building wharves for a railway yard, when other property is available inland? Some of the witnesses were candid enough to say they thought the property had very little value, but it might have value for public purposes and assessed it on that basis. In other words, that the property was of very little value to the owner, but might be of some good value to a party expropriating for public purposes or for a scheme like the present works. However, it is now settled law that in assessing compensation for property taken under compulsory powers, it is not proper to consider as part of the market value to the owner such value as the land taken may have to the party expropriating when viewed as an integral part of the proposed work or undertaking. But the proper basis for compensation is the amount for which such land could have been sold, had the pres-

1917
BELANGER v. THE KING.
Reasons for Judgment.

ent scheme carried on by the Crown not been in evidence, but with the possibility that the Crown or some company or person might obtain those powers and carry on their scheme. And, in the present instance who, outside of the Crown, should undertake such colossal works? *Cedars Rapids Co. v. Lacoste;*[1] *Sydney v. North-Eastern Ry. Co.*[2]

The scheme must be eliminated, notwithstanding works had been started, subject, however, to what has just been said. *Fraser v. City of Fraserville.*[3]

When Parliament gives compulsory powers and provides that compensation shall be made to the person from whom property is taken, for the loss he sustains, it is intended that he shall be compensated to the extent of his loss; and his loss shall be tested by what was the value of the property to him, not by what will be its value to the person acquiring it. *Stebbing v. Metropolitan Board of Works.*[4]

The question is not what the party who takes the land will gain by taking it, but what the person from whom it is taken will lose by having it taken from him. *Sydney v. North-Eastern Ry.*[5]

The policy of the *Expropriation Act* is to enable the court to compensate the owner; but not to penalize or oppress the expropriating party. The Court must guard against fostering speculation in expropriation matters, and must not encourage the making of extravagant claims, and more especially must guard against being carried away by the subtle arguments of real estate speculators or expert witnesses and thus render the execution of public works

[1] 16 D.L.R. 168, [1914] A.C. 569.
[2] [1914] 3 K.B. 629, 641.
[3] 34 D.L.R. 211, [1917] A.C. 187.
[4] L.R. 6 Q.B. 42.
[5] [1914] 3 K.B. 629.

impossible or prohibitive. While the owner must be amply compensated in that he is no poorer after the expropriation, it is no reason to charge the public exchequer with exorbitant compensation built upon imaginary or speculative basis.

These remarks, I must confess, are provoked by the extravagant amount of the claim of the suppliant, namely, the sum of $800,085.65, for a property which has cost him, a few years before, the sum of $18,165.37, as above set forth,—and more especially when the property has been idle for years and years, and the public work in question herein is but the only thing which will give it any value. But since the suppliant's property is required for the erection and building of this public work, he cannot derive any additional value to his property on its account, because if the property is not taken, the public work will not be built.

I need not here repeat the observations made in the case of *Raymond v. The King*,[1] and in the case of *The King v. Hearn*,[2] in respect of the law which should govern in assessing compensation, but they equally apply in this case.

The transaction that presents the most similarity to the present property is that of lot 583, which changed hands at a very low figure only a few years ago, as shown by the evidence. And when assessing the compensation of such a large area of land, as in the present case, it must be borne in mind that a lesser price should be paid than where a small piece of land is expropriated. What similarity, indeed, could there be between the sale of this present property compared to the sale of building lots of 60 by

[1] 16 Can. Ex. 1, 29 D.L.R. 574.
[2] 16 Can. Ex. 146 ,(Reversed in 55 Can. S.C.R. 562).

1917
BELANGER
v.
THE KING.
Reasons for Judgment.

30 feet, upon which some of the witnesses have based their valuation?

Under all the circumstances of the case I will bracket the two lots together and will allow an average price of ten (10c.) cents a square foot for the same, making the total sum of $215,925.40; and in fixing such compensation, although remaining within the evidence adduced, I feel I am perhaps allowing too high an amount for a property composed of waste flats and beach entirely covered with water at high tides, which a few years ago cost in round figures $18,000 and which had been for years practically unproductive and has been a charge upon the owner, the taxes being larger than the revenues, and but for the public work in question would have very likely remained idle for years to come. While the owner cannot share in the benefits derived from the development of this public work, such development has given rise to a market bringing forth a purchaser. And this compensation also appears to me too large when I consider the low figures at which the 67 arpents of beach and flats on lot 583 were sold only a few years before the expropriation.

In the days when the lumber trade was flourishing at Quebec, the property would have been of some advantage, but since the disappearance of this industry there was no market for it. And had not the question of this public work been mooted, no such price could be paid, because there would have been no market at all for this class of property.

To this sum of $215,925.10 will be added the usual 10 per cent. for compulsory taking, the land having obviously been taken against the will of the owner, making in all the sum of $237,517.61.

1917

BELANGER v. THE KING.

Reasons for Judgment.

Therefore, there will be judgment, as follows, to wit:

1st. The lands expropriated herein are declared vested in the Crown as of January 13th, 1913.

2nd. The compensation for the land so taken and for all damages whatsoever, if any, resulting from the expropriation, is hereby fixed at the sum of $237,517.61, with interest thereon from January 13th, 1913, to the date hereof.

3rd. The suppliant is entitled to recover the said sum of $237,517.61, with interest as above mentioned, upon giving to the Crown a good and satisfactory title free from all hypothecs, mortgages, ground rents and all incumbrances whatsover. Failing the suppliant to discharge the ground rents, the capital of the same may be discharged by the Crown out of the compensation moneys and the balance thereof paid over to the suppliant.

4th. The suppliant is also entitled to the costs of the action.

Judgment accordingly.

Solicitors for suppliant: *Pentland, Stuart, Gravel & Thomson.*

Solicitors for respondent: *Bernier, Bernier & de Billy.*