

Standish Hall Hotel Incorporated v. The Queen, [1963] S.C.R. 64

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Commentary

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Her Majesty in right of Canada expropriated the appellant's property which included a hotel. After holding the title for 22 months, the Crown abandoned most of the property which reverted in the former owner. The appellant had meanwhile, with consent of the Crown, remained in possession of the property, and continued to carry on its business there paying no rent.

The rule in a case of this nature seems quite simple. The value of the land is assessed as of the date of expropriation, and as well at the date of reversion. The latter figure is then subtracted from the former, and, subject to certain adjustments, the difference is the amount of compensation to which the owner is entitled (*Gibb v. The King*, [1918] A.C. 915). So far so good. However, in practice the facts do not always lend themselves to the application of this simple formula.

In the instant case the Standish Hall Hotel had shortly before the expropriation been severely damaged by fire. The owner, though at first planning an extensive reconstruction and modernization, confined himself to temporary repairs in view of the expropriation and in anticipation of having to vacate the premises in the near future.

The value to the owner in this case involves not just the relatively small parcel finally retained by the Crown, but also the effects of the expropriation of the entire property which governed the appellant's conduct and his business policy for a period of 22 months. When he found himself with title once more, he claimed (among other heads) compensation for the loss of profits which he would undoubtedly have made, had not the temporary expropriation taken place.

There was evidence to show that when news of the expropriation of the Standish Hall Hotel spread, other hotels in the immediate neighbourhood took steps to secure for themselves the business of the appellant's "orphaned customers". How can this fact find expression in the compensation based on the "value to the owner"?

The majority allowed the appellant \$25,000 for business dislocation. Kerwin C.J. in his dissenting judgment would not make any allowance for loss of business as the appellant never attempted to move its business (p. 68). Locke J., the other dissenting judge, states at p. 83: "In my opinion, if there was any loss of profits during the period of 22 months the appellant had no claim for compensation, since such loss was occasioned by its voluntary act in remaining in possession rent-free during the period. If there was any legal basis for such a claim, I consider that the evidence does not support any award."