

Cassels, J.]

[Nov. 2.]

THE KING v. JANE MARY JONES.

National Transcontinental Railway—Lands taken by Commissioners—Compensation—Arbitration—Jurisdiction of Exchequer Court—Construction of statutes.

Section 13 of 3 Edw. VII. c. 71, reads as follows:—

"The Commissioners may enter upon and take possession of any lands required for the purposes of the Eastern Division, and they shall lay off such lands by metes and bounds, and deposit of record a description and plan thereof in the office for the registry of deeds or the land titles office for the county or registration district in which such lands respectively are situate; and such deposit shall act as a dedication to the public of such lands, which shall thereupon be vested in the Crown saving always the lawful claim to compensation of any person interested therein."

Held, that, under the terms of section 15 of the above Act (read in connection with the provisions of the Railway Act (R.S. 1906, c. 37)), when lands have been taken and become vested in the Crown as provided by section 13, and the Commissioners cannot agree with the owner thereof as to compensation for the same, such compensation must be ascertained by a reference to arbitration, and not by proceedings taken in the Exchequer Court for such purpose.

National Transcontinental R., Ex p. Bouchard, 38 N.B.R. 346, not followed.

Newcombe, K.C., for the Crown. *Nem. con.*

Province of Nova Scotia.

SUPREME COURT.

Graham, E.J.—Trial.]

[Oct. 1.]

MILLET v. BEZANSON ET AL.

Trespass — Crown grant — Erroneous description — Burden of proof.

In an action for trespass to land by cutting logs plaintiff's title was derived under a grant from the Crown in which his land was described as lots Nos. 5, 6, and 7 in the second division of Block letter C., and as being bounded on the east by the rear lines of lots 16, 17, and 18 of the first division, Block letter B.