

action therefor, which was compromised by P. paying \$375, giving \$125 cash and a note for the balance and receiving an assignment of all debts due to W. in respect to the wharf property during his agency, a list of which was prepared at the time. Shortly before the note became due P. discovered that on one of the accounts assigned to him \$100 had been paid and demanded credit on his note for that sum. This W. refused, and in an action on the note P. claimed that the error avoided the compromise, and that the note was without consideration, or in the alternative, that the note should be rectified.

Held, affirming the judgment of the Supreme Court of Nova Scotia, that as it appeared that P.'s attorney had knowledge of the error before the compromise was effected, and as by the compromise W. was prevented from going fully into the accounts and perhaps establishing greater liability on the part of P., W. was entitled to recover the full amount of the note. Appeal dismissed with costs.

Drysdale, K.C., and *Mellish*, for appellant. *Harrington*, K.C., for respondent.

N.B.]

THE KING v. LIKELY.

[Feb. 20.

Expropriation of land—Damages—Valuation—Evidence.

The Crown expropriated land of L. and had it appraised by valuers, who assessed it at \$11,400, which sum was tendered to L., who refused it and brought suit by petition of right for a larger sum as compensation. The Exchequer Court, on said petition, awarded him \$17,000. On appeal by the Crown from this judgment of the Exchequer Court:—

Held, *GIROUARD*, J., dissenting, that the evidence given on the trial of the petition shewed that the sum assessed by the valuers was a very generous compensation to L. for the loss of his land, and the increase by the judgment appealed from was not justified. The Court, while considering that a less sum than that fixed by the valuers should not be given in this case, expressly stated that the same course would not necessarily be followed in future cases of the kind. Appeal allowed with costs.

McAlpine, K.C., for appellant. *Stockton*, K.C., for respondent.

N.S.]

HAWLEY v. WRIGHT.

[Feb. 20.

Negligence—Personal injuries—Use of elevator—Contributory negligence.

H. entered an elevator in a public building after inquiring of the boy in charge if a certain tenant was in his office, and being told he was not, he remained in the elevator while it made a number of trips in response to calls, and had been in it over ten minutes when a call came from the fifth floor. The elevator went up and the passenger who had rung entered, H. at first making no attempt to get out. The operator then shoved to the