

sary for the use, construction and maintenance of the said railway, and for obtaining access thereto, and the said lands and real property have been taken for the use of His Majesty the King, and have been measured off by metes and bounds, and a plan and description of the same, signed by the Chairman of the said Commissioners, and by their Chief Engineer, were deposited of record in the office of the Registrar of Deeds in and for the county of Westmoreland in the province of New Brunswick, in which county the said lands and real property are situate, on the fifteenth day of May, A.D. 1908; and the said lands and real property thereby became and are vested in His Majesty the King."

The second paragraph of the prayer of the information is as follows:—

"2. That it may be declared that the said sum is sufficient and just compensation to the defendant for and in respect of the above described lands and real property so taken as aforesaid, and the aforesaid claim for alleged loss and damage mentioned in the third paragraph of this information."

Special circumstances were shewn as a reason why this and another case should be tried at Moncton, N.B., where all the witnesses reside, and prior to the sitting at St. John, I was asked to hear the evidence at Moncton.

I acceded to the request, but directed the cases to be entered at St. John and the legal question argued as to whether or not the proper method of procedure to ascertain the compensation for the lands is or is not by arbitration under the provisions of the general Railway Act, or under the provisions of the Exchequer Court Act.

On the opening of the case at St. John, counsel for the suppliant and counsel for the respondent asked that this question should be argued in Ottawa, it being a question of considerable importance and affecting numerous cases.

Mr. Newcombe, K.C., argued the case at considerable length, and the view in favour of the Exchequer Court entertaining the action so far as ascertaining the compensation is concerned, was presented very clearly.

I have carefully considered the question and will express my view on the subject.

It is not a technical question, but may be one of very considerable importance to the owners whose lands are expropriated.