property was expropriated. It is a property similar to the one of the respondents, with wharfs, piers, buildings, etc., thereon. This property was called the Ross property or Wolfe's Cove.

It was offered for sale for a lump sum which represented about five cents and two-thirds per foot.

Speaking about the Dobell property, a little higher up on the St. Lawrence, he says:

We find in the evidence given by the plaintiff's witness, Mr. Alfred Curzon Dobell, the prices for different coves nearer to the city limits than Spencer Cove and having the same kind of dependencies erected upon them.

The cove owned by the Dobell estate was sold at a rate of twelve cents per foot, including buildings, wharfs, piers, etc., etc. It was the same kind of property as that of the respondents; there were buildings and wharfs upon it, larger wharfs than on Falardeau's property, and the whole was in a far better condition than Spencer's Cove.

He further says:

Here we have the real basis upon which to form a good idea of the market value of the respondents' property, and we will say, as the learned judge who rendered judgment in the court below, page 189 of the same case, line 33, to wit: 'If the Ross property had, at that time, a market value of five cents and two-thirds per foot, with all erections thereon, why should the Falardeau property immediately adjoining be worth more than six cents a foot, with its wharfs and buildings?' We certainly are, on this point, of the same opinion as the learned judge who rendered judgment; but we do not see any reasons why, after having said the above words, he should fix the respondents' indemnity at eight cents per foot, and we are at a loss to find what reasons must have induced him to increase the indemnity from six to eight cents after having made it clear by the 'considerants' of his reasons for judgment that the Falardeau property should not command on the market more than six cents per foot.

In the valuation of an immovable and of the damages caused by expropriation of said immovable, we must also take into consideration its revenues. The respondents have their place of business and their coal yard within the limits of the city of Quebec on the banks of the St. Charles river. By getting the coal sold to their clients from Sillery, dumped upon a wharf on lot No. 260, they save an expenditure of 73 cents per ton; in other words, they sell that coal at the same price as they would sell it at their yards in the city, but they gain 73 cents on the cartage, making a profit of that amount on every ton. As they sell this way about 1,800 tons, it is a profit of about $1,300 they make by landing that coal there; also a profit of 75 cents per cord on 140 cords of wood; about $115. They have besides that the rental of a building, about $200, and fishing rights bringing them about $35. The total revenue would be about $1,800.

The amount offered by the Crown, calculated at five per cent, would net them a yearly income of about $2,000 clear of all expenses, whilst the respondents have to deduct from their present income the expenses of operating that coal and wood yard and the repairs to buildings, etc., etc.

We humbly submit that for the above reasons the amount offered by the Crown represented the perspective capabilities of lot No. 260 at the time of the expropriation and its adaptability to particular uses.

We also contend that there is not, en fait et en droit, any reason for that 10 per cent increase added to the indemnity for forced sale. The respondents were using only a small portion of lot No. 260, and to grant them an additional amount of 10 per cent over the indemnity, representing the market value of the value of the whole lot, is certainly unjust and unfair to the appellant.

We therefore humbly submit that the judgment appealed from is erroneous, that the appellant was entitled to have his offer of $39,000 declared sufficient, and we respectfully pray for a judgment in accordance.

J. E. Chapleau,
Solicitor for the Appellant.

Quebec, October 15, 1913.

I understand that this factum of the solicitor for His Majesty the King, was duly submitted to the Minister of Justice and Attorney General of Canada. I was surprised when I learned that the appeal from the judgment rendered by Mr. Justice Audette, which was duly filed in the Supreme Court, had been withdrawn. I think it would be interesting to know why. The Minister of Justice directed the appeal to be withdrawn; I may be wrong on that, but at all events the House is entitled to have an explanation from the hon. gentleman. The facts of the case are clear. Here is a property valued at $1,000 in 1894 by the defendants, Falardeau. Later on, the National Transcontinental railway desired to expropriate part of this property for their right-of-way. Sir Allen Aylesworth, Minister of Justice, files an information on the property to be expropriated offering in round figures $26,000 for a stated area of that property. Later on, a new solicitor for His Majesty the King is appointed. Friends of the Government are brought into the case, and immediately the area is enlarged; the offer is also increased to the amount of $39,000. The defendants at first were ready to accept $52,000, but as soon as the amended information was filed by the present Minister of Justice, they immediately raised their indemnity to the amount of $225,000 in round figures. The case goes before the courts. I do not criticise for one minute the judgment or the award rendered by the Exchequer Court. I have much pleasure in saying that there is no judge in whose honour, integrity, and legal science I have more confidence than in Mr. Justice Audette's; but the Judge of the Exchequer