

## KING'S BENCH.

Mathers, J.] BENNETTO v. WINNIPEG. [Feb. 28.  
*Arbitration—Award not made within the time limited—When  
 arbitrator functus officio—Winnipeg charter.*

Motion by the City of Winnipeg for an order prohibiting the County Court judge of Winnipeg from appointing an arbitrator on behalf of the city to determine the compensation payable to Bennetto for lands injuriously affected pursuant to a city by-law.

There had been a previous arbitration to settle the same matter, but the arbitrators had been unable to agree and had allowed the time within which, under sec. 812 of the city charter, they could make an award, to elapse without coming to any decision.

Bennetto now took fresh proceedings, reappointed his arbitrator and served notice on the city, under s. 802 of the charter, to appoint an arbitrator on its behalf. The city having failed to act in the matter, Bennetto gave notice of an application under s. 805 to have the County Court judge appoint an arbitrator on behalf of the city. The prohibition was asked for on the ground that in the former arbitration the city had, by by-law, appointed R. T. Riley as its arbitrator and that said by-law had never been repealed and that Riley was still the city's arbitrator in the matter.

*Held*, that an arbitrator's authority ceases as soon as he has made an award, or as soon as the time fixed, whether by consent or otherwise, within which he shall make his award, has expired, and that Riley's authority to act under the by-law appointing him had ceased whether that by-law had been repealed or not, and that a new appointment of an arbitrator on behalf of the city was necessary. Russell on Arbitration, 111; 2 Am. & Eng. Enc., 696; 3 Cyc., 631; *Ruthven v. Ruthven*, 8 U.C.R. 12. Application dismissed with costs.

O'Connor and Blackwood, for Bennetto. Robson and Auld, for City of Winnipeg.

Macdonald, J.] PATTON v. PIONEER NAVIGATION CO. [March 11.

*Injunction—Dredging sand out of bed of navigable river causing subsidence of banks—Riparian owner—Ownership of bed of non-tidal navigable stream.*

This action was brought to restrain the defendants from continuing to dredge and remove sand for building purposes from