

*Held*, that under the circumstances of the case the certificate sufficiently complied with the requirements of the twenty-fifth section of the contract; that the decision by the engineer rejecting the contractor's claim was not a final decision under the eighth clause of the contract adjudicating upon a dispute under said eighth section, and did not preclude him from subsequently granting a valid certificate to entitle the contractor to receive payment of his claim, and that the certificate given in this case whereby the engineer adopted the construction placed upon the contract in the legal opinion given by the Minister of Justice, was properly granted within the meaning of the twenty-fifth clause of the contract.

*Murray v. The Queen*, 26 S.C.R. 203, discussed and distinguished.

Appeal allowed with costs.

*Osler*, Q.C., and *Ferguson*, Q.C., for the appellant. *Ritchie*, Q.C., and *Chrysler*, Q.C. for the respondent.

Nova Scotia.]

MULCAHY *v.* ARCHIBALD.

[June 14.

*Debtor and creditor—Transfer of property—Delaying or defeating creditors—13 Eliz. c. 5.*

A transfer of property to a creditor for valuable consideration, even with intent to prevent its being seized under execution at the suit of another creditor, and to delay the latter in his remedies, or defeat them altogether, is not void under 13 Eliz. c. 5, if the transfer is made to secure an existing debt, and the transferee does not, either directly or indirectly, make himself an instrument for the purpose of subsequently benefiting the transferor. Appeal allowed with costs.

*Harris*, Q.C., for appellants. *McInnis*, for respondent.

N.-W. Territories.]

HEIMINCK *v.* EDMONTON.

[June 14.

*Municipal corporation—Highways—Old trails in Rupert's land—Substituted roadway—Necessary way—R.S.C. c. 50, s. 108—Reservation in crown grant—Dedication—User—Estoppel—Assessment of lands claimed to be a highway—Evidence.*

The user of old travelled roads or trails over the waste lands of the crown in the North-west Territories of Canada, prior to the Dominion Government survey thereof, does not give rise to a presumption that the lands over which they passed were dedicated as public highways. The land over which an old travelled trail had formerly passed, leading to the Hudson Bay Trading Post at Edmonton, N.W.T., had been enclosed by the owner, divided into town lots and assessed and taxed as private property by the municipality, and a new street substituted therefor, as shown upon registered plans of sub-division, and laid out upon the ground, had been adopted as a boundary in the descriptions of lands abutting thereon, in the grants thereof by letters patent from the crown.

*Held*, reversing the decision of the Supreme Court of the North-west Territories, that under the circumstances there could be no presumption of