

for the Crown an option on certain property which was required for the site of a Customs building in the City of Montreal. Acting upon such instructions, the suppliant took the necessary steps to obtain the option which, after some delay occasioned by the owners, he succeeded in securing.

The Commissioner of Customs was then instructed to proceed to Montreal and arrange to secure the purchase of the property for which the suppliant had obtained the option. The suppliant and the Commissioner met at the Custom House in Montreal, and the latter authorized the suppliant to effect the purchase and asked him about his commission. The suppliant replied that $2\frac{1}{2}\%$ was the customary commission, adding that he was not a regular broker and that he would leave that part of the matter with the Commissioner to deal with as he deserved. The suppliant then obtained a deed of the property from the owners to the Crown.

Held, that the mandate was not gratuitous under Art. 1702 C.C.P.Q., and that as a matter of law the suppliant was entitled to recover a commission on the purchase of the property in question.

2. That as the evidence established that $2\frac{1}{2}\%$ was the usual commission paid under such circumstances, the suppliant was fully entitled to his claim which was at the rate of $1\frac{1}{2}\%$.

W. D. Hogg, K.C., for suppliant. *F. J. Curran*, for respondent.

Audette, J.]

GIBB v. THE KING.

[November 7, 1914.]

Expropriation—Abandonment of Public work—The Expropriation Act, sec. 23, sub-sec. 4—The Exchequer Court Act, secs. 19 and 20—Interpretation—Damages.

Upon a fair construction of the language of the Expropriation Act, sec. 23, sub-sec. 4, the jurisdiction of the Court is not limited to claims arising out of a partial abandonment of the property, but extends to claims for total abandonment as well.

2. Upon expropriation proceedings being taken it is the intention of the above enactment, so that actions be not multiplied, that the damages are to be assessed once for all in such proceedings, but where the Crown before judgment returns the property to the owner, and discontinues the action, so that damages are prevented from being assessed at all therein, then the owner of the property has a remedy by petition of right under the jurisdiction clauses (secs. 19 and 20 of the Exchequer Court Act).