STRONG and TASCHEREAU, JJ., doubting whether the case was appealable, the amount in controversy, deducting the taxed costs, being $2000.

Appeal dismissed with costs.

Irvine, Q.C., and *Bedard* for appellants.

Casgrain, Q.C., for respondent.

BENNING ET AL. *v.* THE ATLANTIC & NORTH-WEST RY. CO.

Expropriation under Railway Act—R.S.C., c. 109—Discretion of arbitrators—Award.

In a case of an award in expropriation proceedings, it was held by two courts that the arbitrators had acted in good faith and fairness in considering the value of the property before the railway passed through it, and its value after the railway had been constructed, and that the sum awarded was not so grossly and scandalously inadequate as to shock one's sense of justice.

On appeal to the Supreme Court of Canada,

Held, that the judgments should not be interfered with.

Appeal dismissed with costs.

Laflamme, Q.C., and *Trenholme* for appellants.

Geoffrion, Q.C., and *H. Abbott*, Q.C., for respondents.

HOLLAND *v.* ROSS.

Crown lands—Location tickets—Transfer of purchaser's rights—Registration of—Waiver by crown—Cancellation of license—23 Vict., c. 2, ss. 18 and 20—32 Vict., c. 11, s. 18 (Q)—36 Vict., c. 8 (Q).

A location ticket of certain lots was granted to G.C.H. in 1863. In 1872 G.C.H. put on record with the Crown Land Department, that by arrangement with the Crown Land agent, he had performed settlement duties on another lot known as the Homestead lot. In 1874 G.C.H. transferred his rights to appellant, paid all monies due with interest on the lots, registered the transfer under 32 Vict., c. 11, s. 18, and the Crown accepted the fees for registering the transfer and for the issuing of the patent. In 1878 the commissioner cancelled the location ticket for default to perform settlement duties.

Held, that the registration by the commissioner in 1874, of the transfer to respondent was a waiver of the right of the Crown to cancel the location ticket for default to perform settlement duties, and the cancellation was illegally effected.

Appeal allowed with costs.

Lacoste, Q.C., and *Nicholls* for appellant.

Laflamme, Q.C., and *Robertson*, Q.C., for respondent.

[Nov. 17.

PETERS *v.* QUEBEC HARBOR COMMISSIONERS.

Contract—Engineer's certificate—Finality of—Bulk sum contract—Deduction—Engineer's powers—Interest.

In a bulk sum contract for various works and materials, executed, performed, and furnished on the Quebec Harbor Works, the contractors were allowed by the final certificate of the engineers a balance of $52,011. The contract contained the ordinary powers given in such contracts to the engineers to determine all points in dispute by their final certificate. The work was completed and accepted by the commissioners on the 11th October, 1882, but the certificate was only granted on the 4th February 1886. In action brought by the contractors (appellants) for $181,241 for alleged balance of contract price and extra work,

Held, 1st, that although the certificate of the engineers was binding on the parties and could not be set aside as regards any matter coming within the jurisdiction of the engineers, yet, that such certificate can be corrected or reformed by the court where it is shown that the engineers have improperly deducted from the bulk sum contract price the sum of $33,100 for an alleged error in the calculation of the quantities of dredging to be done, stated in the specification, and the quantities actually done.

2nd. That interest could not be computed from an earlier date than from the date of the final certificate, fixing the amount due to the contractors under the contract, viz., 4th February, 1886.

STRONG and GWYNNE, JJ., were of opinion that the certificate could have been reformed as regards an item for removal of sand erroneously paid for to other contractors by the commissioners and charged to the plaintiffs.

Appeal and cross-appeal allowed with costs.

Osler, Q.C., and *W. Cook*, Q.C., for appellants.

Irvine, Q.C., and *Stuart*, Q.C., for respondents.
