

we held, as a matter of law, that the "actual value" for the purpose of the assessment was \$95,000. (On settling the minutes \$5,000 was added by consent, as this amount had been omitted by mistake.) We did not determine as a matter of fact that that was the value; what we did determine was a matter of law, i.e., that upon the Board's own premises they should have "fixed" the value at the lower sum.

(2) The second matter of appeal before us upon the appeal from the Board was this. As a matter of law, should the Board have followed the principle they did and fixed the assessment they did? Or should they have followed another principle and fixed a smaller sum? We decided that they were right as a matter of law in fixing the larger sum.

The parties on settling the minutes before me agreed that what this Court should do was to "certify its opinion to the Board" under the Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186, sec. 48(3): and I acceded to their request to certify our opinion. It may be very doubtful whether the general provisions in the section just referred to apply in view of the express provision that in an appeal of this nature "the practice and procedure on the appeal to a Divisional Court shall be the same . . . as upon an appeal from a County Court:" R.S.O. 1914 ch. 195, sec. 80(6), (7). But I do not raise this objection in view of the position and request of the parties.

The form of the "opinion" as settled was as follows:—

"This is to certify that upon the motion made unto this Court on the 3rd and 4th days of March, 1915, by counsel on behalf of the appellant, in presence of counsel for the respondent, by way of appeal from the judgment pronounced herein by the Ontario Railway and Municipal Board on Saturday the 21st day of November, 1914, upon the grounds mentioned in the notice of motion filed, upon hearing read the evidence adduced before the said Ontario Railway and Municipal Board, the order herein of this Court dated the 14th day of January, 1915, and the proceedings herein, and the said order appealed from, and upon hearing what was alleged by counsel aforesaid, this Court was pleased to direct that the said motion do stand over for its opinion, and the same coming on this day for its opinion:—

"1. This Court was of opinion that the actual value of the lands assessed should be fixed at \$100,000.

"2. And this Court was further of opinion that the amount of business assessment of the appellant should be fixed at the sum of \$210,000.