

Some of the facts which I find and which influence my conclusion are: (1) the sale of his business in Ontario was open and well known in his neighbourhood, and it was a profitable sale; (2) long before plaintiff's cause of action arose, defendant had seriously contemplated selling out and moving to Saskatchewan; (3) plaintiff's action is for breach of promise of marriage; her damages, if any, are uncertain, and defendant is, I believe, in good faith defending the action, believing plaintiff has no right to recover; (4) defendant has made provision out of the sale proceeds to pay all his business creditors; (5) he had arranged and intended to return to Ontario about the end of September or beginning of October to settle up a number of business affairs, pack and ship his furniture, and attend the trial of this action.

The order will, therefore, be directing defendant's discharge and a release of his bail. The costs to be costs in the cause unless otherwise ordered by the trial Judge.

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ANGLIN, J.

OCTOBER 8TH, 1906.

TRIAL.

KEEWATIN POWER CO. v. TOWN OF KENORA.

HUDSON'S BAY CO. v. TOWN OF KENORA.

*Water and Watercourses—Expropriation of Lands of Riparian Owners—Development of Water Power by Municipality—Lease from Crown of Bed of Watercourse—Compensation to Owners—Basis of—Value of Lands—Interest of Riparian Owners in Bed of Stream and Water Power—Parties—Attorney-General—Non-navigable Stream Lying between and Connecting Navigable Waters—Impediments to Navigation by Falls—Title to Lands—Crown Patent—Construction—Ownership ad Medium Filum—English Rules as to Non-tidal Waters—Application to Ontario—Injury to Dam—Compensation for—Costs.*

Actions to restrain the municipal corporation of the town of Kenora from prosecuting expropriation proceedings instituted for the purpose of acquiring certain lands situate on